



Submission to the Minister for
Senior Australians and Aged Care

Aged Care Royal Commission Terms of Reference

Prepared by
COTA Australia

September 2018

About COTA Australia

COTA Australia is the national consumer peak body for older Australians. Its members are the State and Territory COTAs (Councils on the Ageing) in each of the eight States and Territories of Australia. The State and Territory COTAs have around 30,000 individual members and more than 1,000 seniors' organisation members, which jointly represent over 500,000 older Australians.

COTA Australia's focus is on national policy issues from the perspective of older people as citizens and consumers and we seek to promote, improve and protect the circumstances and wellbeing of older people in Australia. Information about, and the views of, our constituents and members are gathered through a wide variety of consultative and engagement mechanisms and processes.

Authorised and co-authored by:

Ian Yates AM
Chief Executive
iyates@cota.org.au
Ph: 02 6514 7040

Prepared by:

Corey Irlam
Director, Advocacy and Government Relations
cirlam@cota.org.au
Ph: 0401 738 996

COTA Australia

Suite 9, 16 National Circuit
Barton ACT 2600
02 6154 9740

www.cota.org.au

Permission is provided to publish the full response of COTA Australia.

Contents

Submission to the Minister for	1
Senior Australians and Aged Care Aged Care Royal Commission Terms of Reference	1
About COTA Australia	2
Introduction.....	4
Defining the breadth of the Royal Commission’s inquiry.....	5
Ensuring appropriate mechanisms for older Australians, their families, friends and carers to tell their experiences of aged care services.....	7
Ensuring full resourcing for the Commission to thoroughly investigate causes and model solutions (including cost of care)	8
Key issues raised by consumers	8
Suggested Draft Letters Patent.....	12
WHERE AS (Preamble)	12
TERMS OF INQUIRY (FOCUS)	13
HAVE REGARD FOR (VARIATIONS)	13
ENSURING SCOPE CLARITY (DEFINITIONS)	14

Introduction

COTA Australia welcomes the opportunity to provide suggestions for the development of the Letters Patent (Terms of Reference) for the announced *Royal Commission into the Quality and Safety in Aged Care*.

COTA welcomes the Government's commitment to a Royal Commission and the opportunity it presents to provide a voice to the thousands of individuals and families who have experienced historical and current issues during the delivery of aged care services. COTA also thanks the Government for its commitment to continue implementing reforms that will improve the aged care experience of older Australians while the Royal Commission is in process.

Reforms such as a single complaints and standards regulator in the *Aged Care Quality and Safety Commission*, the *Charter of Aged Care Rights* and the new *Single Aged Care Quality Framework* and new *Aged Care Standards* will collectively provide the single greatest strengthening of consumer-focused reform to the aged care system in the past two decades. In addition, there are a range of other reforms that we would urge the Government to continue implementing while the Royal Commission investigates and recommends further, longer term, reforms.¹

While recognising quality and safety has largely focused on the issues pertaining to quality of care, many of the issues raised with us by consumers and recently featured on the Four Corners program also discuss the quality of life afforded to older Australians supported by aged care services. It is vital therefore to ensure the terms of reference include quality of life outcomes and not simply quality of care provided.

COTAs around the country encouraged older Australians and their families and friends to make their views known directly to the *Consultation to develop the detailed Terms of Reference for the Royal Commission into Aged Care Quality and Safety* which was opened between 17 September and 25 September.² COTA Australia also received views of numerous consumers directly and via state and territory COTAs including the collective input of a number of COTA Policy Councils.

In preparing this submission COTA spoke with a number of consumer stakeholder groups and through the National Aged Care Alliance received the individual views of a number of sector stakeholders. Finally, as COTA concluded the drafting of this submission we observed the "roundtable" consultation between a number of consumers and their representatives and Minister Wyatt to discuss their views as a final stage of the Government's consultation on the reform.

COTA recognises from these representations that there is a wide range of opinions on the breadth and scope of the terms of reference. In addition there are a number of specific areas of concern faced by individuals and specific groups of older Australians which they want included in the terms of reference. COTA encourages the Government to approach the letters patent development in a way that appropriately balances the need to focus on key holistic areas of concern, while

¹ I. Yates, (September 2018) *'Position Paper: Keep fixing Australia's aged care system... taking the next steps in tandem with the Royal Commission'*, COTA Australia, Canberra. <https://www.cota.org.au/publication/keep-fixing-australias-aged-care-system/> (Accessed 29 September 2018)

² See <https://consultations.health.gov.au/aged-care-policy-and-regulation/terms-of-reference/> for more information

recognising that the Commission should look at those areas of concern through the lenses of various groups and issues.

Defining the breadth of the Royal Commission's inquiry

The Prime Minister made clear when announcing the Royal Commission that it will cover both residential and in-home care services. That is welcome and consistent with the urging of many people that the Royal Commission must cover all Government funded/subsidised aged care whatever the setting in which they are delivered. Others argue that the Commission should cover all care delivery regardless of funding source (i.e. whether Government subsidised, privately funded or purchased through bundled packages). Others have argued that non-aged care issues such as hospitals and primary health care on one hand and retirement village legislation on the other should be in scope to ensure all aspects of support and care for older people are covered.

COTA recognises the state and territory responsibilities for many of the service systems being requested and the limited ability for the Australian Government to include areas over which it has no authority or responsibility, unless state and territory governments also request their inclusion in the Royal Commission. Notwithstanding these jurisdictional limitations we encourage the Australian Government to ensure the broadest possible scope of inquiry consistent with achieving an outcome in a timely fashion.

COTA is also concerned that aged care services appropriate to one population may not be appropriate to another. COTA is pleased the Government recognises this in so far as its preliminary scoping of coverage specifically mentioned the needs of older people experiencing dementia, younger people with a disability in residential care, and the needs of older Australians living in rural or remote locations.

Since then there have been calls from many parts of the community that there must be specific consideration of all diverse groups including older Australians with a disability (and thus not entitled to access NDIS) and *people with special needs* (as defined in the Aged Care Act). This includes Aboriginal and Torres Strait Island people, veterans, culturally and linguistically diverse people, and people who are homeless or at risk of homelessness, amongst others. Should Government accept the proposition that the Royal Commission look at the situation of care provided to different groups and how the quality systems are designed to support them, COTA would also advocate consideration of the issues faced by those in receipt of aged care who do not have any familial or friendship support.

Obviously the Royal Commission needs to investigate the extent to which substandard care occurs, the reasons this happens, and whether the mechanisms to protect against such measures are appropriate. In addition, however, the Commission needs to find out why, when all providers operate within the same regulatory and funding environment, some provide consistently high standards of care and support, are well staffed, pay above average, and are sought after by residents and families, while others provide lower qualities of service.

Some people have suggested that certain types of aged care services seemingly place profits above appropriate levels of care, although at the same time the need to raise sufficient capital to meet the needs of a rapidly growing population means that investors of any type need to receive a reasonable return on their funds. Further, incidents of concern reported in the media, including the recent Four Corners stories, appear to occur across for profit and non-profit providers. Many people believe that issues of quality of governance and senior management are key variables and the Royal Commission should investigate these factors and delve deeply into the different business models operating in aged care and their appropriateness.

There have been quite a few changes to the statutory environment of aged care services since the introduction of the Aged Care Act in 1997, which arguably ushered in the modern aged care era. In particular the past six years of reform since Living Longer Living Better has seen a number of improvements to strengthen consumer protections within a more consumer-focused approach to aged care. Other significant changes are now in train. However, the Commission can expect to receive information about incidents that date back before each stage of reform. COTA itself has received a number of representations about incidents that have occurred as far back as forty years ago – signalling the depth of emotion many people have about the incidents that have occurred to loved ones, or in some cases those in their care. These stories must be able to be shared with the Royal Commission. The Commission may find that reforms since the incident have addressed the issues; but it may also find such issues have continued despite the reforms.

Recommendations by the Royal Commission should have regard to the context of the current aged care framework, regulation, funding, and quality and safety mechanisms, but it should allow those affected by abuse, neglect, inadequate care or poor quality of life in aged care to tell their stories whenever they occurred.

We therefore urge the Government to ensure that it includes within the scope of the inquiry the broadest possible coverage of aged care services, regardless of funding source and regardless of the location in which services are provided. Specifically, we would ask the Government to ensure the Royal Commission includes:

- **Services delivered in all settings** - including residential aged care, in-home care (including when provided within retirement villages, land-lease communities and other seniors-focused accommodation) and community-based centres and services.
- **Services delivered regardless of funding source** – while it is true that most aged care services are delivered through Government funding, there is a significant portion that are delivered through private services which are technically outside the protections afforded by the Aged Care Act and associated legislation, but which may be the only way a family can access, for example, home care, given the length of time people have to wait for high level home care packages.
- **The ability for all stories to be shared** – it is vital to ensure older Australians, their families and friends are able to share their stories and experiences of aged care services, regardless of timeframe.

- **Consideration of care received by different populations** – including those experiencing dementia, those with a disability (both under and over 65 years), people with special needs, people from rural or remote areas, and those without family members involved in the planning or monitoring of their care.
- **Focus recommendations on improvements to the current aged care system** – acknowledging that some historical incidents reported may have been addressed by reforms occurring since those incidents occurred.

Ensuring appropriate mechanisms for older Australians, their families, friends and carers to tell their experiences of aged care services

COTA Australia believes the Royal Commission will receive many thousands of representations about poor experiences in aged care, both current and from the past. Many of these will come from family members and from current or former staff. They must be enabled to tell those stories without barriers and impediments, and they must be supported through the stressful and emotional process many will experience.

The degree of interest is evidenced by the level of response to the Government's invitation for people to provide input to the Royal Commission's terms of reference. We understand more than 5,000 responses were received via the online portal, and more via the Minister's email address and by mail.

Nevertheless, the COTAs have received complaints from older people about not having enough time to provide input or be considered for involvement in the Minister's Roundtables, even though this consultative process on the terms of reference is unprecedentedly broad, having involved all stakeholder representatives, as well as an open call to the public.

People who felt the process was rushed feared that this might mean that they would miss out on making their input to the Royal Commission process or would not be listened to or have an opportunity to participate in the Commission's work. In addition, there were complaints that most of the communication about the Royal Commission, and most of the opportunity for input, has been online, which excludes some of the most vulnerable older Australians who may have poor online literacy.

COTA Australia welcomes the amount of consultation the Government has undertaken on the terms of reference. However, the concerns expressed above are an alert to the issues that will be even more amplified during the Commission's work, and an opportunity to learn from this experience when considering the resources and mechanisms the Royal Commission will need to have in place to adequately service the population accessing aged care services.

For example, the Royal Commission must ensure it promotes itself to and receives submissions from people who are not non-online. It must ensure that older people, their families and carers are given adequate time to participate in its processes in a meaningful way. With the lower mobility capacity of most within residential care today, how will the Royal Commission solicit

submissions from those currently living within residential aged care services? Will it only be if the resident has a family member or a friend who makes a digital submission on their behalf to initiate contact from the Royal Commission? Will Government fund officers of the Royal Commission to visit a substantially representative sample of residential aged care residents to ascertain their views of the services they are experiencing? How will the Commission access the experiences of consumers of home care in the privacy and relative isolation of their homes?

In addition, there will be the emotional toll of reliving stories of abuse and neglect by families, friends and carers of consumers no longer able to speak on their own behalf. It is important that the Royal Commission has sufficient resources to support individuals wishing to tell their experiences. COTA notes the exemplary approach to this need by the Royal Commission into Institutional Responses to Child Sexual Abuse.

COTA recommends that the Royal Commission be sufficiently resourced to ensure emotional and mental health support for people giving evidence to the Royal Commission and that the Royal Commission devise methods for submitting evidence from a wide range of consumers and families, other than through online means.

Ensuring full resourcing for the Commission to thoroughly investigate causes and model solutions (including cost of care)

COTA believes one benefit of a Royal Commission is its ability to raise issues above the day-to-day politics inherent in the funding of aged care services in the context of Government's budgetary processes and constraints. For over a decade COTA Australia's call for a Government initiated cost-of-care study has fallen on deaf ears. This means that despite various reviews there has not been a benchmark set for what level of funding is required to deliver the level and quality of care the community expects for people in aged care. The Royal Commission must model the true cost of care and recommend the appropriate balance between government/taxpayer subsidies and consumer contributions.

In addition, it will be necessary to examine why two providers, receiving equal funding opportunities, deliver different care outcomes. It would be valuable if the Royal Commission provided Government with insights as to how and why improved outcomes for older Australians are achieved by some providers and not others.

Key issues raised by consumers

The section below summarises a number of the specific issues that consumers have told us should be investigated by the Royal Commission:

- **Abuse and sexual assault** – the terms of reference should include investigation by the Royal Commission into the extent of abuse, prevention efforts, responses to allegations/cases of

abuse, and the role of the regulatory framework in preventing, identifying and responding to abuse.

- **Neglect and disrespect** – While some occasions of service may not amount to abuse or assault, nevertheless their treatment of older Australians may be tantamount to neglect and lack the respect that older Australians deserve.
- **Retirement Villages** – given the trend toward a minority of retirement villages offering aged care services, or indeed promoting themselves as alternatives to residential aged care, we strongly believe that this aspect of retirement villages should be captured in the terms of reference. This does not extend to the Commission involving State/Territory legalisation over retirement village financial and management arrangements.
- **Quality of life and self-determination issues** – to what extent can recipients of care express their individual wishes and have genuine choice and control in matters that are important to them. Sensory support is important and often overlooked (massage, touch), pets, social engagement, intergenerational connections. How can we shift the focus of operation to ensure that the satisfaction of the care recipient is pre-eminent to the process and the system? How can care recipients participate in life beyond the facility? To what extent are care recipients able to make a choice to leave the care of a particular service provider in the residential aged care setting?
- **Medication** – what is the chain of responsibility in relation to prescription and administration of medication and what systems are in place to ensure prescription of medication is appropriate, and administration of medication is error-free? How are non-prescription items incorporated as part of the overall medication regime for care recipients? To what extent are existing regulations being adhered to in residential aged care settings?
- **The extent of access to primary health, dental/oral health, allied health and pharmacy services in the residential aged care setting should be explored** - what factors are affecting the ability of people in residential aged care to access the services of their own General Practitioner and/or the support of other health services? Is the apparent limited access setting the aged care services system up to fail? What, if any, primary or secondary health services (including certain hospital services) could and should be delivered within a residential aged care service? Are the current levels of transfers between aged care services and hospitals appropriate? Are GPs and other health professions remunerated enough to make servicing clients in a residential care facility attractive enough compared to other service delivery settings? Are there non-remunerative reasons why they decline to do so?
- **Role of medical and health professional bodies, standards and guidelines** – COTA is concerned that some incidents of substandard care reported in recent media reports, particularly those in relation to medication prescribing and management, may have breached professional standards additional to those regulated by aged care legislation. While aged care standards cover the services delivered directly by the aged care provider, GPs, allied health professionals, nurses and others are regulated by their own systems and processes separate to the aged care standards, which do not always seem to be followed in aged care

- **Representatives** – COTA notes that many older Australians in residential care have diminished capacity to make decisions about their care. In some situations, these consumers will have a formal substitute decision-maker assigned under state or territory legislation in the form of power of attorney, enduring guardianship or by appointment of the guardianship board. However, in many cases no such formal substitute decision-maker is in place. The Aged Care provider may still however appropriately recognise a family member as a ‘representative’. COTA is concerned by frequent feedback over many years from consumers who feel their family members make decisions for them when they have capacity to make it for themselves with some support. The inconsistency between formal substitute decision makers assigned under state and territory laws, and a ‘representative’ under the Aged Care Act, is worthy of consideration by the Royal Commission. Has such inconsistency led to abuse of older people by their family members? Where a resident of aged care does not have a self-nominated representative, the provider may appoint one of their staff members to be their representative to make decisions on their behalf – is this current mechanism the optimal outcome for consumers? There are many other questions to be explored in this space.
- **Palliative care services** - to what extent are palliative care services accessible in residential aged care and home care settings and what is the quality of the services delivered? Should palliative care services within aged care be funded in a separate way, or at a different level to general aged care services? What is the role of State and Territory government funding which have primary responsibilities for palliative care services?
- **Responsiveness to complaints and feedback** – how effective is the current system of complaint management in aged care and how connected are complaints to accreditation processes? Should there be greater compulsory transparency about complaints and complaint handling? How do we inform and engage consumer and families more effectively in knowledge about and use of the complaints service?
- **Funding requirements**– the sector has long called for a ‘cost of care’ study so that an accurate discussion around the appropriate quantum and sources of funding aged care could be achieved. COTA believes the Royal Commission must resolve this matter once and for all after successive Governments have failed to ask the questions, as they apparently have not wished to learn the answers to such funding questions.
- **Funding incentives/disincentives** - In addition, funding appears to be creating a disincentive to reablement and promotes a culture where improvement in health and wellbeing is not encouraged or rewarded. COTA believes future funding systems should incentivise improvements in health and wellbeing of care recipients.
- **Consumer contributions** – COTA has always supported the notion that consumers who can afford to contribute towards their own care should do so. Yet due to the lack of a clear cost of care study on which to base the discussions, conversations about a consistent and equitable consumer contributions scheme has largely been ignored by successive Governments – despite the aged care budgetary pressures inherent in the ageing demographics. In addition, different means testing arrangements apply in every area of aged care (CHSP/CHP/Residential supported/Residential non-supported. This is absurd and does not pass the consumer “pub

test". A coherent and sensible policy needs to be adopted. Repeated inquiries have recommended the same thing and this Royal Commission needs to sort it, in the absence of governments and oppositions of both flavours being unable to do so.

- **Staffing issues** – the recommendations of the Taskforce into Aged Care Workforce should be front and centre for the Commission. Training is clearly a major issue that requires the highest level of consideration. We also need to explore how this links to the number and skills of staff, accreditation of skills learnt on the job or through micro-credentialing, recruitment of staff, salaries, rostering, retention strategies and the profile of the industry as a desirable place to work.

We need to understand the important role played by all staff. Obviously personal care workers are critical to the quality of life that residents experience, as they tell us all the time. Nurses are vital in terms of clinical issues, but most of what residents tell us about are quality of life issues. We need the best quality of nurses in aged care, because some of the worst clinical disasters have been at the behest of nurses. Special attention needs to be paid to allied health professionals, who are often undervalued in what they bring to aged care recipients, but which is critical to a restorative and rehabilitative approach. In addition, we refer to pastoral carers and volunteers.

- **Information for consumers** - The adequacy or otherwise of the availability of information to assist consumers to make an informed choice about residential, home care or home support, either in a Government subsidised system or through private services is obviously critical. How can we ensure that there is transparency and comparability for consumers when making aged care choices and that information is difficult to understand (to put it mildly)? Decisions are often made in a short time frame under pressure and often with little previous knowledge of aged care systems and this needs to be taken into account.
- **Nutrition** – it is critical that this is included for a number of reasons, including health and wellbeing, quality of life, and personal choice. Nutrition is critical to helping older people to remain as independent as possible.
- **Ownership models** for residential aged care – much media discussion has focused on the correlation between private profit driven aged care services and their link to quality of care. COTA is unconvinced that for-profit providers inherently deliver different outcomes to those of not-for-profit or mission-based providers. In order to reclaim confidence in the aged care system all models of ownership should be examined and how funds received for the purpose of delivering care are being used towards care, and whether inappropriate levels of surplus / returns are being generated at the expense of quality of care provided, and where identified to make recommendations about whether such models are appropriate into the future.
- **Management/Governance and culture** – the Royal Commission must examine the apparent disconnect between governance structures and the quality of care delivered in residential aged and home care (which has been downplayed far too much to date). What needs to occur to ensure a chain of responsibility exists and that the culture and operation of the aged care service is front and centre as a responsibility of the board and management, including clinical

governance? The Four Corners programs tended to focus on the shortcomings of care staff and the quality and complaints systems that we have in place, but these are symptoms, not causes. COTA believes that governance is a fundamental, bedrock issue in terms of the future of quality aged care.

Suggested Draft Letters Patent

COTA has attempted to consolidate the above information into draft terms of reference. We have structured it on the Letters Patent for the Royal Commission into Institutional Responses to Child Sexual Abuse. It contains four key areas including a **preamble** to set the context for the inquiry, the key **focus** of the Royal Commission and the ability for Government to instruct the Commissioners to **have regard** for a broader range of considerations when investigating the key focus of the inquiry and a section to ensure clear **definitions** of key concepts within the terms of reference. The below should be read in absence of the inserted subheadings.

WHERE AS (Preamble)

WHEREAS all Australians have rights, which do not diminish with age or disability, to live dignified, self-determined lives, free from exploitation, neglect, violence, ageism and abuse.

AND noting that there are many positive examples of safe and high quality care for older and disabled people in our community that can contribute to the inquiry, recognising the important services and support for the aged and disabled receiving aged care services, and their families, that are beneficial to Australia and its ageing society.

AND noting Australia's international undertakings to take all appropriate legislative, administrative, social and educational measures to protect those being supported by aged care services from all forms of neglect, exploitation and abuse, including measures for the prevention, identification, reporting, referral, investigation, treatment and follow up of incidents of exploitation, neglect and abuse.

AND laws and legal frameworks should provide appropriate protections and safeguards for older and disabled Australians, while minimising interference with the rights and preferences of the person.

AND having regard for the importance that those, or the families of those, who have experienced exploitation, neglect, violence and abuse or any related unlawful or improper treatment by a provider of aged care service can share their experiences to assist with healing and to inform the development of strategies and reforms that your inquiry will seek to identify,

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you to inquire into aged care quality and safety in Australia and related matters, and in particular, without limiting the scope of your inquiry, the following matters:

TERMS OF INQUIRY (FOCUS)

- a) Whether **aged care services** provided in Australia are of an appropriate and high quality and where substandard care is identified the extend of that substandard service across Australia including identifying the appropriate staffing types and quantum required by those services;
- b) The challenges and opportunities of providing aged care services to older Australians into the future, including specific consideration of the changing demographics, the experiences of and care outcomes achieved by older Australians and specific populations of older Australians; and the challenges of providing accommodation and care to younger people with disabilities within residential aged care services;
- c) What aged care services and Government can do to improve the dignity and respect of older Australians and to prevent occasions of abuses, neglect and substandard care from occurring;
- d) Any other matter relating to the provision of aged care services.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, funding, legislative, administrative or structural reforms; and including recommendations in the course of the inquiry where the Commission has determined that an early recommendation would be appropriate and beneficial, even if it was to be subsumed by a final recommendation.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, we direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

HAVE REGARD FOR (VARIATIONS)

- a) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual cases and may need to make referrals to appropriate authorities in individual cases;
- b) Changes to laws, policies, practices and systems that have improved over time the ability of **aged care services** and governments to better protect against and respond to instances of substandard care, including those relating to a 'representative';
- c) The experiences of specific populations and whether the current aged care system adequately supports their care needs, including but not limited to:
 - i. people experiencing dementia, and whether the current aged care system adequately supports the care needs of this increasing population cohort;
 - ii. people with a disability (including those under 65 years old and over 65 years old);
 - iii. **people with special needs** including those from culturally and linguistically diverse communities;

- iv. users of aged care services without family members actively participating in their care planning;
- d) The practices, protocols, feedback or complaint handling systems, quality assurance frameworks, staffing levels and qualifications of **aged care services**;
- e) Whether aged care funding derived from Government payments and subsidies and in the form of client contributions provide sufficient levels of funding to deliver on the high-quality care expected by the Australian population;
- f) The role and impact of an aged care consumer '**representative**', including the inconsistent approach to who is accepted by an aged care service as a having a substitute or supported decision making on behalf of those older Australians unable to make decisions for themselves including incidents where a formal 'power of attorney' or 'enduring guardian' is not in place to make formal 'substituted decisions' and how decisions are made in the best interest of the older person and what if any 'supported decisions' approaches are taken;

AND, that should you consider it appropriate that you may report progressively to the Government with any findings and recommendations you determine appropriate prior to the submission of your inquiry's final report;

AND that you may seek services from consultants or experts to help inform your recommendations, particularly as they pertain to funding or modelling of the costs to implement any recommendations you may make;

AND We declare that in these Our Letters Patent:

ENSURING SCOPE CLARITY (DEFINITIONS)

Aged care services include both:

- a) Commonwealth funded aged care services
- b) Services provided by non-commonwealth funded aged care approved providers or non-commonwealth-contracted aged care services, but which are either substantially similar to aged care services provided by Commonwealth aged care services and/or are promoted as an alternative to commonwealth funded aged care services
- c) Notwithstanding the above 'aged care services' may include such services delivered in any physical environment including a residential care facility, a person's own home, a retirement village or out within the community.

Commonwealth funded aged care services includes:

- a) Services provided by an **approved provider**, or their contractors, as either **a home care service** (which has the same meaning as in the Aged Care Act) or **residential care service** (which has the same meaning as in the Aged Care Act).
- b) **commonwealth-contracted aged care services** provided under a funding agreement with the Commonwealth of Australia and may include, but is not limited to services provided under the:

- a. ***Commonwealth Home Support Program*** or
- b. ***Flexible Care programs*** including *Transition Care, Short-Term Restorative Care, Multi-Purpose Services Program, National Aboriginal and Torres Strait Islander Flexible Care program and the Innovative Care Program.*

people with special needs is as defined in the s11-3 of the Aged Care Act

'representative' may include a person who is an 'authorised' or 'legal' representative that may be a substituted decision maker (such as a person with enduring power of attorney or guardianship) or may include a person who has been nominated by the care recipient as their regular 'representative'

Ends