Aged Care

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Policy Category: Health

Aged care is a public good, not a cash cow

In a shameful breach of the trust of Australians, successive federal governments have handed control of our aged care sector to large, unaccountable “vultures” which extort and exploit our elderly relatives, extracting profit from the country while avoiding tax. Governments are assisting the process via a variation of the failed public-private partnership (PPP) model, funnelling taxpayers’ money to companies making four times the profit of overseas operators and turning a blind eye to regulatory breaches in what has become a too-big-to-fail (TBTF) sector akin to the criminal big bank-soft regulator complex.

Following the release on 1 October of the Aged Care Royal Commission’s “ Aged care and COVID-19” special report and the government’s announcement of additional funding for a serious incident response scheme and nurse upskilling program, Director of Aged Care Matters Dr Sarah Russell made clear that simply throwing more money at the problem is precisely the wrong response. Without the introduction of transparency and accountability codes for aged care providers, that money will go to the same corporations profiting from the high turnover of dying Australians.

While the government has endorsed all the Commission’s COVID recommendations, as Dr Russell wrote for Michael West Media on 5 October, past advice “from numerous inquiries, reviews, consultations, think tanks and task forces over the past decade” has been ignored. The recommendations are specific to the COVID crisis and are critical for outbreaks, as far as that goes: Increased staff levels to facilitate visitation; medicare provision for allied health and mental services; a national advisory body and national aged care plan; and accredited infection prevention and control staff for all centres. The final, overall report is due to be delivered in February 2021.

Decades of flawed policy in the sector must be overhauled, however, if even the current recommendations are to be fulfilled. As showcased in the royal commission’s October 2019 interim report, simply titled “Neglect”, the system is too starved to be rehabilitated in its current form. Had our aged care sector been adequately regulated, advised and staffed, elderly residents would not have been alone, without companionship, food, water and care; many lives would not have prematurely ended. Had a COVID-response program been issued and managed—top-down—with protocols for testing, PPE use and timely hospital transfer of COVID-positive cases, breakouts could have been contained and families could have continued visiting their loved ones, albeit under specialised arrangements.

Deregulation incubates a Ponzi scheme

The outsourcing of aged care to the private and not-for-profit sector had already commenced,[1] but the *Aged Care Act 1997* of John Howard’s government is widely acknowledged as the turning point that destroyed the aged care sector. A Productivity Commission review under the Julia Gillard government in 2011 which resulted in the *Aged Care (Living Longer Living Better) Act 2013*, finished off the job.

The Howard legislation axed the requirement for at least one registered nurse (RN) to be on duty in aged care centres at all times, along with fixed proportions of care by other professionals. According to a two-part series on “The collapse of aged care” by Rick Morton in the *Saturday Paper* (12 and 19 September), from prior to Howard’s legislation to today, the number of funded RN hours in a typical nursing home nearly halved. Justified in the name of budget savings, it rewarded aged care providers that received large government grants with virtually no accountability for where the money went. Following the extensive deregulation, which had “private equity firms and American corporates salivating”, Australian aged care providers were posting returns *nearly four times* that of their overseas counterparts, the *Saturday Paper* revealed. Their profits are 10 per cent higher than publicly-owned Australian operators. What is the operating model that makes this possible?

It is essentially a Ponzi scheme. Every new “customer” contributes a lump sum upon entering care—anywhere from $100,000 to $2 million, depending on local property prices—from the sale of their home or other assets. That sum is repaid without interest upon their death or other exit from care. In the intervening years the provider can make a tidy profit investing the money, originally called accommodation bonds—usually in property or the stock market. As long as there are more incoming clients, exiting ones can be paid out and the racket continues.

In effect interest-free loans to nursing homes, accommodation bonds were initially introduced only for *low care* places. After the 2011 Productivity Commission report they were extended across all care and renamed “refundable accommodation deposits” (RAD).

The viability of raking in large profits from caring for elderly citizens was only questioned when the

model began to collapse, as is the case with most pyramid schemes. A February 2020 report prepared by Gary Barnier, ex-CEO of Opal Aged Care and now with the Aged Care Financing Authority, showed that the scheme was collapsing *prior to COVID-19* hitting, with a third of operators in "financial stress" and 19 per cent making losses. Following the Howard and Gillard changes, Tony Abbott's government had intervened to prevent a wage increase for aged carers and registered nurses, and PM Scott Morrison stole from the indexed expansion of aged care funding to create his short-lived budget surplus. Lower relative levels of government subsidisation hit the sector hard. Horror stories about aged care, a shift towards longer at-home care and economic factors forcing people to pay their bond as they went rather than upfront, all contributed to falling profits.

There are 141 aged care operators now at risk of collapse. As a result of COVID-19 around $1 billion in RAD bonds have been wiped out as people either die or leave care homes with no new residents incoming. If a home shuts down, it is ultimately the government, as guarantor, which has to pay out the bonds. It has been reluctant all along to hold operators to account as it cannot afford to let them fail—the whole scheme could come crashing down on its shoulders. From 2006 (and prior to COVID) it had already paid out $43 million worth of bond refunds, according to the 25 September *Herald Sun*. Now, the government is so spooked, wrote Morton in the *Saturday Paper*, it has "arranged meetings with Health, Treasury and 'major financial institutions'."

Privateers

According to a Grattan Institute report by Dr Stephen Duckett and Professor Hal Swerissen, in the last four years the number of for-profit providers in aged care has almost tripled. Over half of all aged care beds are privately run for profit, with six large operators (BUPA, Opal, Regis, Estia, Japara and Allity) controlling more than 20 per cent of the market. A report prepared for the royal commission stated that the "current model favours more sophisticated providers who have the necessary financial acumen to manage diverse portfolios and capital structures". In fact, private aged care operators have created a convoluted structure in order to exhibit lower profits, reduce tax liabilities and secure more government funding. Operators establish a subsidiary company which invests the RADs in property (including a site for the care facility), keeping the profits separate and charging the operator rent.

A 2018 report by the Tax Justice Network Australia, commissioned by the Australian Nursing and Midwifery Federation (ANMF), showed how big operators like UK-headquartered Bupa and Opal, half owned by AMP Capital, are shifting profits offshore and paying minimal tax. Titled, "Tax avoidance by for-profit aged care companies: Profit shifting on public funds", the report revealed that the six largest for-profit operators received over $2.17 billion in government subsidies in the 2017 financial year—72 per cent of their total revenue. The largest of them, BUPA, paid $105 million tax on $352 million taxable income, while actually taking in almost $7.5 billion (2015-16). This is consistent across the field.

Private operators have become expert at simultaneously skimming investment profits and siphoning government money. Since passage of the Howard law, they no longer even have to show they are spending the money on actual care. Private companies make greater claims for government subsidies than non-profits, which in turn claim more than government operators, according to evidence submitted to the royal commission. There are other parallels with TBTF banks: In 2018 a Federal Court forced a number of the biggest private providers to repay tens of millions of dollars' worth of fees for which no services were provided.

If you are horrified by this, don't think that home care is a viable alternative—unless you have an open chequebook. That system is also administered by private providers and similarly exploited. ABC 7:30 on 8 September 2020 revealed that fees gouge anywhere from 30-70 per cent of carers packages for home care; and there are around 100,000 people on waiting lists, many of whom die before receiving care. The whole model was predicated on the competitive market, Kathy Eager, Professor of Health Services Research from Wollongong University, told 7:30, but the system has failed thousands of people.

Don't let the market dictate!

All the rhetoric about viewing the sector as a "market" and providing the "consumer" with choice, was a blatant cover to exploit Australia's growing aged population for profit.

For all the myriad agencies involved in aged care none has taken a top-down regulatory role, either in preventing the devastation of the sector in the first place, or in the microcosm, advising and overseeing the COVID-19 response. Neither the responsible federal government, nor the Aged Care Quality and Safety Commission (aged care regulator), nor emergency medical agencies the Australian Health Protection Principal Committee (a decision making committee for health care emergencies), the Communicable Diseases Network Australia or the Australasian College of Infection Prevention and Control provided a protocol for dealing with COVID in the broken aged care sector. In the absence of such a protocol, masks were not mandated for far too long and advice to treat COVID as a "flu-like illness" led to deadly decisions.

As royal commission Counsel Assisting Peter Rozen, QC, stated in an August hearing, this is not a

failure—this is “the system operating as it was designed to operate”. Former head of the public service, John Menadue, in an article with Mark Buckley for his website, *Pearls & Irritations*, spelled out that the “lighter touch accreditation approach” of the Howard reform “really means no oversight” at all. His conclusion: “We need to re-build a strong public sector, augmented by not-for-profits. Throw away the neoliberal playbook.”

It is worth considering again making aged care a state responsibility, operating as a subset of public health. The Victorian COVID experience has shown that state-run aged care, with higher regulatory and professional staffing standards, is relatively successful. One thing is certain: its role as a public good and not a profit-making enterprise must be restored.

Footnotes:

1. See “Outsourcing government is a corporate takeover”, AAS, 23 Sept. 2020, for the genesis of outsourcing in general. Return to text

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