

This final submission from Professor Sara Charlesworth and Wendy Taylor is *supplementary* to the Expert Witness statement by Professor Charlesworth [RC Exhibit 11-52 [as amended](#)], her expert evidence before the Commission on 16 October 2019 [T6085.36-44] and the [Decent Work Good Care team's workforce submission](#) to the Commission on 6 January 2020 [AWF.640.00095.0001] in response to specific workforce issues posed by the Commission.

Our submission relates to the Royal Commission's Terms of Reference d. and f.

- what the Australian Government, aged care industry, Australian families and the wider community can do to strengthen the system of aged care services to ensure that the services provided are of high quality and safe
- how best to deliver aged care services in a sustainable way, including through innovative models of care, increased use of technology, and investment in the aged care workforce and capital infrastructure

Our submission draws on key lessons from research with international colleagues on the Australian Research Council-funded [Decent Work Good Care: International Approaches to Aged Care](#) project, as well as other research we and others have undertaken. We make a number of broad evidence-based propositions and recommendations that would shift the Australian aged care system to a system based on decent work and good care.¹

In summary, these propositions and recommendations draw on the following foundational elements:

1. System-wide decent work & good care:

A sustainable aged care system based on decent work and good care requires the Australian government to proactively and transparently lead, fund, monitor and support this system. Such a system requires: government-led long-term care policy; adequate funding; proactive, transparent quality & safety monitoring and enforcement; professionalisation strategies; and supportive employment regulation & practice

2. Good care

Good quality care is where older people have their social, emotional, personal care & clinical needs met through holistic person-centred models of care.

3. Decent work

Decent work means frontline aged care workers have the pay & working conditions that provide them with economic & working time security, dignity *and* with the time & skills to provide good care.

¹ Set out in detail in the [Decent Work Good Care team's workforce submission](#) to the Commission on 6 January 2020 [AWF.640.00095.0001].

1. The Australian government must take an investment approach to the provision of excellent aged care infrastructure across Australia

For too long in Australia, formal long term care has been treated only as a burgeoning economic 'cost' that must be contained with scant attention paid to the full realisation of the human rights of both service users and the workers who provide aged care services.

British economist Sue Himmelweit argues a new approach is needed to the provision of care, including long-term care. An approach that 'redefines its mission in positive terms: to enable everyone to be able to choose to do, as far as possible, what others can do unaided.'² Australian aged care policy officially emphasises principles such as dignity, respect, and person-centredness. However, the default policy *practice* has been to try to make sure that the elderly are merely kept comfortable in their final years, without investing the resources necessary to ensure that older people are positively supported to lead fulfilling and meaningful lives. While access to good quality clinical care for the elderly is vital, their social and emotional well-being is equally important. There is significant research that highlights the fundamental importance of good care-giving relationships between older service users and frontline aged care workers in achieving good quality aged care services.³

Expanded public investment in long-term care also requires robust and transparent regulatory and quality systems. This is critical given the financial, service user and worker risk embedded in Australia's marketized model of aged care.⁴ In particular, current funding models underpin fragmented and insecure work in frontline aged care work.

We need to invest the necessary resources to provide the infrastructure to underpin the provision of good quality long-term care both now and in the future. Available comparative OECD data on public expenditure on long term care indicates that Australia spends around 1.0% of GDP compared to an OECD average of 1.8%.⁵

There is broad agreement that Australia's financial commitment to long term care must be increased. However, financial modelling of the investment required to provide the resourcing and time to care that good quality aged care demands has been absent. Modelling of the actual cost of investment in decent wages, good working conditions and career progression for the frontline workers has also been lacking. Yet both are imperative: skilled and capable frontline workers are central to the provision of good quality aged care.

² Himmelweit, S (2018) [Transforming Care](#) in Macfarlane, M (Ed) *New Thinking for the British Economy* Open Democracy UK, pp 62-77, at 64.

³ For a useful summary see Meagher G, Cortis N, Charlesworth S & Taylor W (2019) [Meeting the social and emotional support needs of older people using aged care services](#) Sydney: Macquarie University, UNSW Sydney and RMIT University, pp 23-38. See also Armstrong P (2015) Conclusion in Baines D and Armstrong P (eds) *Promising Practices in Long Term Care: Ideas Worth Sharing*, Canadian Centre for Policy Alternatives.

⁴ Meagher G, Cortis N, Charlesworth S & Taylor W (2019) [Meeting the social and emotional support needs of older people using aged care services](#) Sydney: Macquarie University, UNSW Sydney and RMIT University.

⁵ Centre of Excellence in Population Ageing Research (2019) [Aged Care Policy, Provision and Prospects](#), CEPAR Fact Sheet, UNSW and OECD (2017) [Health at a Glance](#).

2. Investing in the aged care sector has short-term and long-term social & economic benefits

The *social and economic benefits* of providing aged care frontline workers with decent wages and working conditions has largely been absent in calls for action on the poor wages and conditions in both residential care and home care. This is a significant gap. Improving wages and working conditions will have a profound impact on the quality and continuity of care provided to frail older people and their families; on the economic security of frontline workers; and on a reduction of the recruitment and retention issues faced by service providers. The provision of high-quality sustainable aged care services and decent employment conditions will have flow-on benefits to the broader economy and society.

Aged care is a growing sector and demand for services will continue to grow. It is not characterised by the boom bust scenarios of many other sectors (e.g. construction). Nor is it affected to the same extent by changing consumer preferences that drive peaks and troughs in industries such as hospitality and tourism. With such certainty and growth, if ever a sector had potential to provide stable jobs, regular work and predictable incomes, it is aged care.

Little research, however, has been undertaken on the economic *benefits* of increasing pay and improving working conditions for workers in Australia. In the New Zealand Parliament during the [final reading](#) before passing of the Pay Equity Settlement in 2017, Dr Shane Reti referred to economic modelling undertaken on the projected flow-on benefits to the broader economy. This research estimated \$10million per annum in the North Region alone, based on an extra \$100 per week for 2,000 workers,

In light of the COVID-19 pandemic and the associated economic recession, aged care has been overlooked as a sector that might support an economic recovery. Governments typically focus on investing in large physical construction projects to help stimulate the economy, and the benefits of investing in decent care infrastructure is overlooked as a possible stimulus. However, simulations across seven OECD countries (including Australia) analysing the employment gains of investing in care infrastructure versus construction suggests considerable economic and social benefits can be derived through investment in the care economy, including in aged care.⁶ This research estimated that if Australia spent an additional 2% of GDP on care infrastructure, we could deliver a decent and sustainable care system that provides the high-quality services people need alongside decent working conditions for those working in these services.

⁶ De Henau J, Himmelweit S, Łapniewska Z & Perrons D (2016) *Investing in the Care Economy A gender analysis of employment stimulus in seven OECD countries* International Trade Union Confederation, Brussels. See also de Henau J & Himmelweit S (2020) [The gendered employment gains of investing in social vs. physical infrastructure: evidence from simulations across seven OECD countries](#), IKD Working Paper No. 84, The Open University.

3. Decent work is at the heart of good care

Aged care policy must recognise the relationship between decent working conditions for frontline aged care staff and the quality of care for vulnerable older Australians. Most residential aged care workers and home care workers enjoy their work. It is the low pay, poor conditions and the lack of time to provide care that they are dissatisfied with, not the work itself. Regulatory reform is required so that frontline workers have the pay and working conditions that provide them with economic and working time security, dignity and with the time and skills to provide good care.

The provisions in the Social Community Home Care and Disability Services Award for home care workers provide inadequate pay rates, with limited career progression. Residential aged care workers typically enjoy marginally better working-time conditions, being better protected as employees in an institutional setting. However, the Aged Care award also contains clauses that maximise flexibility for employers through increase income and working time insecurity for many employees. A combination of regulatory gaps and silences in working conditions set out in both Awards⁷ makes these essential service occupations an unsustainable option for many current workers and an unattractive option for many prospective workers.

The practice of employing workers in both home care and residential aged care on short-hours minimum part-time contracts leads to significant underemployment, insecure working time and workers needing to work across more than one employer to earn a living. A key point overlooked in debates about skills shortages and recruitment and retention issues is that 40% of home care workers and 30% of residential personal carer workers want to work longer hours than they currently have. This is a particular issue for migrant workers from a non-English speaking background who are more likely to be underemployed than Australian-born aged care workers.⁸

4. Staffing models and associated funding must recognise and support older persons' well-being and quality of life

The Commissioners have heard extensive research and experience relating to residential aged care and what might constitute minimum staffing levels, hours of care per resident and optimum skill mix. Sufficient time for home care workers to provide good quality care has received much less attention. For example, adequate time needs to be factored into home care visits (and the packages that provide for them) to enable the flourishing of the relationship aspects of home care workers' interactions with clients and the time necessary to provide personal care in a way that ensures dignity for clients.⁹

In residential aged care, frontline staff also need enough time to attend to the social, emotional, personal and clinical needs of residents as they fluctuate across a day, a week or a year. Residents need opportunities to spend time outdoors in surrounding gardens, balconies, on outings and in individualised engagement with staff. Staffing levels and skill mix need to be in place to enable workers to deal with the 'regular irregularities' that characterise aged care service provision. These regular irregularities include events such as when: a resident or client's condition is deteriorating and requires assessment, close monitoring or a possible transfer to hospital; a resident or client has

⁷ See [Edited Statement](#) of Professor Sara Charlesworth to the Royal Commission into Aged Care Quality & Safety, October 2019 at paras 17-29.

⁸ Charlesworth S and Isherwood L (2020) Migrant aged-care workers in Australia: do they have poorer-quality jobs than their locally born counterparts? *Ageing & Society*, 1 – 21, doi:10.1017/S0144686X20000525.

⁹ See the [Decent Work Good Care team's workforce submission](#) to the Commission on 6 January 2020 [AWF.640.00095.0001] at para 15.

a fall; a centre suffers a gastroenteritis outbreak; a resident or client is in their final days, or has just died, and family members are needing support.

5. Consumer-directed care fragments working time and limits improvement in minimum employment standards for frontline workers

Since 2017, all home care packages must be delivered on a consumer-directed care (CDC) basis to eligible individuals who have been assessed as having a certain level of need. The failure of the CDC model of funding to meet the needs of many older people given long waiting times for home care packages has been taken up by the Royal Commission, including in its Interim Report.

However CDC not only leaves older people who require care very vulnerable but also affects the conditions and pay of home care workers. The rationing of care via CDC together with the regulatory gaps in the Social Community Home Care and Disability Services Industry Award has led to task fragmentation for many home care workers.¹⁰ Increasingly workers have their paid working time distributed across a day with gaps of unpaid time travelling between clients and between short shifts. Further, the fact that CDC funding is tied to an individual means the costs of home care worker training, worker health and safety checks of client's homes, worker support and supervision are no longer able to be covered as they were under the previous system of block home care funding.

CDC has resulted in increased competition between service providers but has failed to deliver improvements to wages and working conditions across the sector. Using enterprise agreements, some larger not for profit providers pay slightly higher hourly rates to frontline workers and provide fairer working conditions (such as a two-hour minimum engagement for casual home care workers, rather the one hour provided for under the Award; and paid travel time between clients). However, employers are highly constrained by the individualised government funding they receive, so these improvements, while positive and demonstrating a desire by some employers to provide better work conditions, are, in the main, just tinkering around the edges.

The CDC model works against improving minimum working time conditions for employees. Indeed it may be used to weaken protections for home care workers still further. In 2017 the Fair Work Commission (FWC) declined to agree to home care and disability support employer demands for further employer flexibility in what it described as the already flexible conditions of permanent part-time work in the Social Community Home Care and Disability Services Award.¹¹ Nevertheless, in relation to the NDIS, also an individualised funding model like CDC, the FWC stated that demands by employers for increased flexibility may require further review after the full implementation of the NDIS.¹²

¹⁰ Meagher G, Cortis N, Charlesworth S & Taylor W (2019) *Meeting the social and emotional support needs of older people using aged care services* Sydney: Macquarie University, UNSW Sydney and RMIT University.

¹¹ Fair Work Commission (2017) Decision: 4 yearly review of modern awards – Casual employment and Part-time employment, 5 July 2017, [2017] FWCFB 3541.

¹² Fair Work Commission (2017) Decision: 4 yearly review of modern awards – Casual employment and Part-time employment, 5 July 2017, [2017] FWCFB 3541, at para [643].

6. The Australian Government must lead in setting, monitoring and enforcing fair pay and decent working conditions for frontline aged care workers

The federal government is not only the steward of Australia's system of long term care,¹³ it also has statutory powers to regulate employment and is effectively the lead employer in the sector. Good quality aged care is a public good. The government needs to be fully accountable for its operation and outcomes, to service users, workers and the broader community. Aged care service providers are highly dependent on, and constrained by, government funding. Funding levels impact directly on employment conditions, on how funded service providers organise the work of aged care and on their decisions on pay rates, progression and working conditions. At the same time there is a complete lack of any transparency about, or accountability for, the different decisions that individual employers make about the quantum of aged care funding spent on wages and conditions for aged care workers and how aged care work is organised.

The Australian government subsidises between 75-80% of the cost of aged care services with the rest provided by service users. The government has encouraged competition rather than cooperation between service providers through its marketised system of aged care. Competition may have resulted in some small service innovation, but competition between government-funded aged care employers has not led, and will not lead, to improved pay and conditions for workers or improvements in the quality of care for older people.

Wages and conditions will only improve if the federal government fully costs the resourcing required to provide decent wages and improved conditions. As system steward, the government also needs to take the lead role in, and accountability for, determining the best mechanisms to deliver improved pay and working conditions, in consultation with aged care unions, provider peaks and aged care advocacy groups.

Once established, the implementation and impact of improved pay and conditions need to be proactively enforced and monitored, including through the transparent assessment of responsive care quality standards.¹⁴

7. The Australian Government can learn from New Zealand Pay Equity legislation and process

As was pointed out in [Counsel Assisting's submissions on workforce](#) [para 580], Australia can learn valuable lessons from the New Zealand's Government's approach to addressing the long-standing low pay and poor working conditions experienced by New Zealand support workers.

Once the NZ government acknowledged the gendered undervaluation of frontline aged care and support workers, it took responsibility to address it. The NZ government worked through a committee comprising government representatives, service providers and unions with the task of designing a new architecture for vastly improved pay and working conditions for 55,000 support workers.¹⁵ The details of this framework are set out in in our earlier submission.¹⁶

The Pay Equity Settlement covers support workers in residential aged care and home care (as well as support workers in disability and accident compensation schemes) and has in effect lifted home care workers out of their 'poor cousin' status.

¹³ See [Decent Work Good Care team's workforce submission, paras 35-36.](#)

¹⁴ See [Decent Work Good Care team's workforce submission](#) Para 33-34, 37.

¹⁵ See [DWGC Promising Policy New Zealand: Pay equity and career structure for aged care workers](#)

¹⁶ See [Decent Work Good Care team's workforce submission](#) Para 26.

Other lessons to be learned from the New Zealand experience are that decent wages depend on much more than increased hourly wage rates. The Pay Equity Settlement included a progressive four level classification structure with meaningful wage increases between each level tied to additional formal qualifications. Two other main sources of low pay for home support workers: the lack of payment for travel between clients and irregular and fragmented hours of work were addressed prior to the Pay Equity Settlement being finalised. These were addressed in The Home and Community Support (Payment for Travel between Clients) Settlement Act (2016) Part A & Part B (2017). The guaranteed hours regulation provides workers with blocks of continuous hours of work and a quantum of weekly hours based on previous hours of work.¹⁷ Home care workers are also paid for client cancellations. Unlike in Australia, this means that if a client cancels a scheduled visit, and the support worker cannot be found work elsewhere, they will still be paid for their time.

8. The Government must model the costs of any new wage and conditions structure to ensure additional funding meets *actual* implementation costs

A crucial warning to Australia from NZ's experience is the NZ government's failure to provide *the full funding required* to implement its substantial aged care reforms. This limited the realisation of the potential of these reforms, both in respect to care quality and job quality.¹⁸ While the government had modelled the approximate costs associated with different salary increase scenarios, the costs of the implementation of the new wage structure on the ground were underestimated.¹⁹ We acknowledge the NZ government has since made several funding increases to address these gaps.

9. Improving pay & working conditions requires strong Australian government commitment & a cooperative approach

Within the current industrial relations framework, the Australian government has potential mechanisms through which to improve the minimum pay and conditions for all aged care and home care workers and produce a more comprehensive classification structure. Key features of such a framework were set out in our earlier submission.²⁰ A group of labour law experts was asked by Royal Commission to provide advice on potential mechanisms. We note the Counsel Assisting's Submissions on Workforce makes a key point in concluding (at para 592): *They considered that it may be possible to amend the three awards applying to aged care workers to effect such improvements. However, they advised that history suggests that, without strong federal government commitment and a co-operative approach that involves the employers, unions and care recipients, success will be elusive.*

That New Zealand was able to effect the change it did in aged care workers' wages and conditions is due in large part to the (belated) NZ government commitment to see the process through *and* commit substantiable additional funding to back up that commitment. Working in consultation with the key stakeholders was also integral to the design of the final classification and wages structure. In the Australian context, such consultation must be integrated in determining the process (and best mechanism) for improving the pay and conditions in the three awards. Report after report has identified pay and conditions as a major issue in the sector. While work has been undertaken from

¹⁷ See Charlesworth S & Heap L (2020) Redressing gendered undervaluation in New Zealand aged care: Institutions, activism and coalitions. *Journal of Industrial Relations*, 62(4), 608–629.

¹⁸ See [Decent Work Good Care team's workforce submission](#) Para 26.

¹⁹ See [New Zealand Aged Care Association, Press Release, 'Cost pressures biting hard for rest home sector](#), 19 May 2019.

²⁰ See [Decent Work Good Care team's workforce submission](#) Para 25.

time to time to document the extent to which these workers are underpaid, the requisite action to remedy such underpayment has not been taken.

The mechanism and process for the development of a new pay and conditions structure is a highly complex and significant undertaking. Sustainable change, however, is unlikely without involvement not only of sector stakeholders, including unions, peak provider bodies and aged care advocacy groups, but also experts in employment regulation and labour law, including in the care sector, at all stages in the design and implementation process.

10. Reliable updated data on the numbers, socio-demographic and employment characteristics of the frontline aged care workers is vital

For a large workforce and one that is part of Australia's essential service infrastructure, data on the frontline occupations in the aged care sector occupation is *simply inadequate*.²¹ This situation is unsustainable if we are to have a modern, responsive aged care system providing good quality care. It is unclear exactly how many home care workers and personal care workers there are providing services to aged care residents and home care clients. We also do not know how many workers are employees, are employed via labour hire, or are employed as so-called 'contractors', including through 'gigs' on care platforms.

What we do know is that the badly defined occupation of 'aged and disabled carer' (which includes both aged care and disability support workers providing services in clients homes) is large and growing strongly. We also know this occupation is highly feminised. The Department of Jobs and Small Business estimates that in 2019 there were some 177,200 'aged and disabled carers' of whom 80% are women. The number of workers in this occupation has grown by 35% between 2014-2019.²² We have to rely on Census data to obtain basic socio-demographic data about this group of workers. However, we have no way of gaining reliable and regular data on the employment characteristics of this occupation or that of 'personal care assistants' who are the main frontline occupation in residential aged care.

The Counsel Assisting's Submission on Workforce includes a recommendation to undertake workforce modelling of the supply and demand of the various occupational groups employed in aged care, including frontline workers. It is very difficult to conduct accurate modelling on supply and demand for large occupations where there is inadequate data on which to base that modelling. It is also important that remuneration on the basis of the *actual work value* of frontline care work is in place *before* any such modelling is undertaken. Existing pay and conditions do not reflect the value of the work undertaken by frontline aged care workers or their value to system-wide good quality aged care.

A more valuable use of resources would be to focus first on remedying the low pay and the insecure working conditions in the three relevant industrial awards. Base-line modelling could then be undertaken of the actual implementation costs associated with increased pay rates and improved conditions. The combination of improved pay and working conditions, combined with adequate funding tied expressly to this end, is likely to increase the labour supply. It should also support service providers to fully utilise the large number of aged care workers who are currently underemployed.

²¹ See Expert Witness statement by Professor Charlesworth [RC Exhibit 11-52 [as amended](#)] Paras 60-68.

²² Australian Government (2020) [Australian Jobs: Industry Overview](#).

11. Lessons from COVID-19: all aged care workers are essential workers & good quality care is much more than clinical care

There is huge community interest in and concern about the impact of COVID-19 on residential aged care. There is significant publicity about the number of aged care residents and residential aged care workers affected by COVID. There has, however, been scant attention paid to what is happening in home care with COVID. We got a brief and partial glimpse this week when a parliamentary committee was told by the federal Department of Health that 25 home care services for the aged had been affected by COVID, including 17 clients and 24 home care staff.²³

Home care services are used by 50% of Australia's aged care system service users. Home care's lack of visibility, with its location in client's private homes, has led to insufficient attention being paid to the quality of care provided or to home care workers and their conditions of work. Ageing in place is the strong preference of many older people and their families. Yet there is clearly insufficient oversight of the rapid growth in new providers and the quality of care delivered to ensure good quality aged care services for all service users.

Despite the recognition of frontline aged care workers as 'essential' workers, three recent union surveys have documented the lack of adequate PPE as well as the loss of hours in both home care and residential aged care.²⁴ The Commission has heard from residents and the families of residents about the awful impact of the loss of social contact on residents. This loss relates, not only to social contact with families, but also with workers in the exclusive focus on COVID-19 related clinical needs of residents. At a time of peak infection this may be perhaps understandable. However the total lack of attention given to people's needs for social connection is still of enormous concern. While not as visible as in residential aged care, the union surveys also highlight that many home care services have been cut back severely with little consultation with clients or their families or indeed the workers who provide services to them.

²³ The Guardian Australia (2020) [National cabinet plans rapid-response units to curb Covid-19 outbreaks in Australian aged care facilities](#), 7 August 2020.

²⁴ See [Australian Nursing & Midwives Federation](#) (2020); [United Union of Workers](#) (2020) and an as yet unpublished survey of home care workers by the Australian Services Union (Vic/Tas Branch).