



UPDATE: Preliminary Hearing for Royal Commission into Aged Care

The Royal Commission commenced with a preliminary hearing on 18 January 2019.

During the hearing, the Commissioners outlined the status of the enquiries of the Commission to date and what was likely to occur during the term of the Commission.

KEY FEATURES OF COMMISSION

Appearing below are some of the key features of the Royal Commission, outlined by the Commission and detailed in the transcript of the hearing.

Changing Nature of the Regulatory Framework

- The Commission will follow the progress of changes that are proposed over the next 12 months to the regulatory framework of aged care, which includes the commencement of the Aged Care Quality and Safety Commission (this commenced on 1 January 2019); and
- Part of the work of the Royal Commission is to examine existing policy regulations and practices in order to consider reform and change to deliver better outcomes to those receiving aged care in the future.

Some Major Themes Identified by the Commission

The likely major themes identified by the commissioner to be addressed in the Royal Commission will include:

- quality and safety;
- access and inclusion;
- young people with disabilities;

- interfaces and transitions;
- future challenges and opportunities; and
- how to deliver quality care in a sustainable way.

“Cooperation and Assistance”

At the present time, providers have not been compelled (unless requested) to provide information in response to the requests for information made by the Commission.

Instead, the Commission has asked providers for “assistance and cooperation” in the provision of their responses.

Any provider who does not engage with the Commission’s requests will, according to the Commissioner, “draw attention to themselves and their practices...”

Community Engagement

The Commission will engage with the Community.

This has already commenced with round table and informal discussions with stakeholders.

Public Hearings

Public Hearings will be held in each capital city and in some regional centres.

A Practice Guideline with respect to the conduct of the hearings including evidence of witnesses, cross-examination and tender of evidence has been published on the Royal Commission website.

Withholding of information

Any attempt by an operator to instruct staff not to talk to the Royal Commission will be taken very seriously by the Commission and could amount to an offence.

Nature of responses to date

During the hearing, the Royal Commission was informed by Counsel assisting that:

- requests for information were sent to 1,982 approved providers in late November 2018;
- of those requests, responses were received from 83 providers;
- to date the highest recording of complaints and incidents relate to residential care;
- incidents reported include:
 - ◆ elder abuse;
 - ◆ medication mismanagement;
 - ◆ overuse of psychotropic medication;
 - ◆ issues of food safety;
 - ◆ not responding in a timely manner to residents requiring assistance; and
 - ◆ inadequate wound management leading to death.
- A further issue for providers is record keeping and record management.
- To date 300 submissions have been received by the Royal Commissioners from members of the public from around Australia.
- Of those submissions, approximately:
 - ◆ 81% have been concerned with the provision of care in residential facilities;
 - ◆ 54% raised concerns due to substandard or unsafe care and staffing issues; and
 - ◆ 51% raised staff ratios as concerns.
- Before the Royal Commission was announced, 5000 submissions were made to the Department of Health. Those submissions will be treated as submissions made in the Royal Commission itself.

PROCESS OF HEARING

In addition, Counsel assisting explained that the process to

public hearings will include the following:

- Direct testimony from people receiving aged care, or their families or other carers about their experiences with the aged care system;
- That most hearings will focus on particular themes relevant to the terms of reference. The detail of those themes will develop during the course of the inquiry; and
- Evidence will be called from staff in providing aged care, experts, advocacy bodies; workforce representative bodies; professional bodies; aged care sector representative bodies; aged care providers and government bodies.

COMMENCEMENT OF SUBSTANTIVE HEARING ON 11 FEBRUARY 2019

The first substantive hearing is scheduled to commence on 11 February 2019 in Adelaide.

At that hearing, the Commission will hear evidence which would include:

- the key features of aged care, quality, safety, complaints system, challenges faced by the aged care system;
- how the system has operated and been monitored prior to 1 January 2018; and
- how the system is expected to be operated, monitored and regulated in the future under the Aged Care Quality & Safety Commission.

Importantly, Counsel assisting stated:

“The perspective of people receiving care is going to be central to this inquiry. It is now for the Royal Commission to explore what has happened in the past, so that it can direct attention to how real and tangible improvements can be made to the provision of quality and compassionate aged care in Australia for all Australians in a secure and sustainable basis into the future....”

FURTHER INFORMATION

We will be reporting major developments in the Royal Commission as they arise.

For more information on how we can assist Aged Care Providers, please refer to our [previous articles](#) and [eBook](#).

Should you require assistance, please contact David Glinatsis, Solicitor -Principal and director of a not-for-profit aged care facility for over 25 years.

Contact us at excellence@kreisson.com.au or on 02 8239 6500.

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