



**Meals on Wheels<sup>TM</sup>**  
**Australia**

## **Submission on Framework for New Aged Care Act**

**8 September 2023**

### **Who Are We?**

Meals on Wheels Australia (MoWA) is the national peak body representing over 590 individual Meals on Wheels (MoW) outlets that provide meals to around 200,000 older Australians. MoW services represent one of Australia's largest users of voluntary labour, with over 45,000 active volunteers involved in meal delivery and social engagement with older people.

### **Overview of new Act**

MoWA appreciated the opportunity to participate in a roundtable on the foundations of the new Aged Care Act on 23 August 2023. This submission is supplementary to our feedback at the roundtable.

MoWA supports the intent of the new Aged Care Act.

### **The structure, purpose and constitutional foundation for the new Act**

MoWA supports making the human rights of older people the foundation of the new Act. It makes sense to use the external affairs power and international treaties as the legal basis for the new Act. We also support the intent to structure the new Act around the various steps through the aged care system that older people take.

### **The Statement of Rights**

MoWA broadly supports the Statement of Rights as proposed. We note the debate at the roundtable about places where the proposed rights could be strengthened. We do support listing the responsibilities of older people that complement their rights.

### **The Statement of Principles**

MoWA supports the intent to include person-focused, system-focused and governance level principles in the new Act. Unlike the discussion at the roundtable, we believe it is important to include principles which would apply to all actors in the system, including government entities.

MoWA does not like describing aged care as a market. Even in its own economic terms, aged care could only be described as an imperfect market, with power and information imbalances between providers and service users, and entry to the market controlled by government. We prefer describing aged care as a community service.

We believe it is important for the Statement of Principles to include reference to due process being afforded, particularly in regard to the actions of the Regulator.

**The definition of high-quality care**

MoWA notes the proposed definition of high-quality care. We support including such a definition in the new Act, but agree with the discussion at the roundtable that the current version is inadequate. We would be happy to assist the Government to work on an appropriate definition.

**A new duty of care and compensation pathways**

MoWA notes the disagreement about the need for a statutory duty of care to be included in the new Act, with some lawyers at the roundtable saying that a combination of common law and state/territory legislation was sufficient.

MoWA is comfortable with the proposed wording of the duty of care. Key issues will be clarity about the threshold for a breach of the duty of care. What will constitute a serious failure? What would be reasonable steps a provider might take to protect themselves?

We are uncomfortable about the impact of extending liability from provider organisations to individual directors, aged care workers or volunteers. We are concerned such an extension will have a chilling effect on the capacity of community-managed organisations to recruit volunteers to boards or as aged care workers.

**Protections for whistle-blowers**

MoWA supports the proposed protections for whistle-blowers.

**Embedding supported decision-making**

MoWA supports efforts to embed supported decision-making into the aged care system. We note discussion at the roundtable about issues with the proposed structure for nominating people at the Commonwealth level. We support concerns about how the proposed structure will manage family conflicts and elder abuse.

**Eligibility for Commonwealth funded aged care services.**

MoWA supports the introduction of a single assessment process for older people to determine eligibility and conduct an individual needs assessment.

*Contact: Paul Sadler, Chair Meals on Wheels Australia.*

*Mob: 0418 208 232*