



**LASA**  
LEADING AGE SERVICES  
AUSTRALIA  
*The voice of aged care*

LASA RESPONSE TO THE  
DISCUSSION PAPER:  
PROPOSED ALTERNATIVE  
MODELS FOR ALLOCATING  
RESIDENTIAL AGED CARE  
PLACES

13 September 2019

*A strong voice and a helping hand  
for all providers of age services*

## Leading Age Services Australia

Leading Age Services Australia (LASA) is a national association for all providers of age services across residential care, home care and retirement living/seniors housing. Our purpose is to enable high performing, respected and sustainable age services that support older Australians to age well by providing care, support and accommodation with quality, safety and compassion – always.

LASA's membership base is made up of organisations providing care, support and services to older Australians. Our Members include private, not-for-profit, faith-based and government operated organisations providing age services across residential aged care, home care and retirement living. 55% of our Members are not-for-profit, 37% are for-profit providers and 8% of our Members are government providers. Our diverse membership base provides LASA with the ability to speak with credibility and authority on issues of importance to older Australians and the age services industry.

## Summary

The Aged Care Approval Round (ACAR) has significant shortcomings that impact competition and create mismatches that limit access to preferred service providers.

However, a more market based approach to allocating places also has risks, including the creation of a queue and a number of possible market failures, including problems with access to services for vulnerable groups. Providers are also concerned with the possible timing of deregulation given current financial pressures and lack of progress on many related policy issues.

Limited evidence on both problems with ACAR and the risks of a more market driven approach make it difficult to determine the nature, scale and urgency of reform that is required.

Given current instability in residential aged care and uncertainty about both the benefits and risks of change, LASA supports a measured and incremental approach to reform in line with model 1.

This is fundamentally the same as the position that LASA expressed in response to the Tune Review recommendations on ACAR deregulation.

A key focus should be collecting better evidence on the nature of existing constraints, and evaluating more market driven approaches to allocating services in similar markets in Australia and overseas. Consideration should be given to fully abolishing ACAR within a particular location and examining the impact that this has on the nature of the services that are available.

Related policy issues need to be addressed ahead of any significant deregulation, including:

- developing a more rigorous approach to ensuring access to services (including respite services), particularly for vulnerable groups and those rural and remote areas;
- developing mechanisms to support structural adjustment
- developing mature mechanisms to support consumer choice
- addressing problems with the regulation of additional services fees and other restrictions that inhibit product differentiation; and
- resolving structural problems with quantum and allocation of funding.

ACAR should be made more regular and transparent, and the approach to targeting areas where supply is constrained should be reviewed and strengthened where necessary.

Persistent non-operational places should be investigated more closely and stricter expiry dates should be considered taking into account factors outside of a provider's control.

Location restrictions should be loosened in the allocation of metropolitan places (including the removal of state based restrictions), but retained for non-metropolitan places pending an evaluation period. Consideration should be given to making licenses freely tradeable within metropolitan areas.

## Case for deregulation

As the paper notes, ACAR has a number of problems:

- the number of criteria that are considered mean that decisions are non-transparent;
- the ACAR can be gamed in the short-term by applying for places to crowd out local competition;
- there may be mismatches between supply and demand that inhibit access;
- supply constraints limit competition (and the accompanying choice and pressure to improve or exit that competition creates); and
- many allocated places are non-operational.

However, the discussion paper provides limited evidence on the extent of these problems, which makes it difficult to determine the nature, scale and urgency of reform that is required.

The roughly 30 per cent success rate in the latest ACAR round provides some prima facie evidence of supply constraints. However, it seems unlikely that the full 37,000 places that were applied for would be built if the constraints imposed by ACAR were removed – especially given the current low occupancy levels and the high number of non-operational places.<sup>1</sup>

Given falling occupancy rates, many providers argue that they are already facing significant pressure to improve and innovate to attract new consumers. ACAR itself should also be responsive (albeit slowly) to local mismatches between supply and demand; where services are capacity constrained they should be able to apply for and receive additional places. Providers report that the slow operationalisation of places is often due to delays in planning approvals.

Additionally, declining investment intentions in the face of deteriorating financial performance and the large number of provisionally allocated and non-operational places suggest that releasing the constraints imposed by ACAR may do little to increase competition and expand capacity until other constraints facing the sector are resolved.

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<sup>1</sup> See ACFA 2019, *Seventh report on the Funding and Financing of the Aged Care Industry*, pages 39-41.

## Concerns with a more market based approach

While ACAR has limitations, there are also potential issues with a more market driven approach, particularly the complete abolition of bed licences.

### Creation of a queue

Given the number of people with standing residential aged care approvals, the abolition of licenses in the absence of uncapping supply would likely involve the creation of a queue.

A residential care queue would force people who wish to enter care quickly to wait (possibly in hospital) while placing pressure on those that wish to stay at home as long as possible to enter residential care or give up their approved place.

While some people may already be waiting because their preferred service is full there would be few cases where there is absolutely no spare capacity within a region.

A queue would also create challenges for business planning and viability as providers may have invested in response to local demand but be unable to fill places because demand elsewhere exceeds the overall cap on supply.

### Crowding out services to vulnerable groups (including rural and remote)

ACAR targets the allocation of places towards services that support vulnerable groups and those in rural and remote areas, whereas a market based approach targets supply towards the groups that will deliver the greatest return.

A market based approach may actually be more responsive to some niche markets than administrative allocations, but there is a real risk that, over time, commercial realities may result in the needs of some older Australians not being met.

Other mechanisms also act to support supply to vulnerable groups, but relying solely on these mechanisms would be risky, particularly in the absence of a rigorous approach to measuring vulnerability and unmet need.

### Creation of oligopolies

Small markets for residential aged care – particularly those in regional areas – may have natural monopoly characteristics that will ultimately result in a high degree of concentration that actually gives consumers less choice and creates essential service providers that are too big to fail even if they deliver poor care.

### Limited consumer information

Consumers have limited information on the quality of care in a service (particularly in advance of entering care) so competition is likely to occur on more visible factors such as build quality; service/feature lists; and the size and effectiveness of marketing activities.

### Increased disruption

Competition is messy and disruptive. Under an administrative approach if two providers wish to open new places within a market, the administrative decision maker evaluates the applications and decides which is best. Often this will not reflect consumer preferences. However, under a market

based approach both providers may invest (perhaps without knowing that the other is doing so) and discover the market is too small to support both of them, forcing significant investments to be written off, particularly as overall demand in residential aged care is likely to be unresponsive to lower prices (which would be the main mechanism for adjusting to oversupply in most markets) even in the absence of a cap on total supply. The end result may better reflect consumer preferences but the transaction costs could be considerable.

More generally, competition will lead to increased risk of service closures with impacts on their clients and potential prudential risks.

Aggressive expansion strategies may add risk and instability that later require the closure of many services after other providers have already been pushed out of the market (as occurred with ABC Learning in a deregulated market for child care services).

Increased risk will raise the cost of capital, and in some cases the higher level of risk may actually lead to less investment than would have been the case under the current model of place allocation.

### Current financial instability and problems with funding

Introducing further instability in the sector would be particularly risky at a time when large numbers of providers are already under significant financial pressure due to problems with the quantum and allocation method for residential aged care funding.

### Regulatory barriers to product differentiation

Product differentiation is currently heavily restricted by problems with the regulation of additional services, and broader limitations on residential aged care pricing such as the basic daily fee.

## Position on reform

Given the above concerns, moving directly to Model 2 would likely be too significant a change at present. LASA supports a measured and incremental approach to the deregulation of the allocation of residential aged care places (i.e. Model 1) though this could still be a stepping stone to a more fully deregulated model at a point in the future.

### Collect more evidence

The first step in moving forward should be to collect more information and evidence – particularly in relation to the current problems with ACAR, but also in relation to the operation of more market driven models elsewhere. This will help inform reform options, monitor the effect of changes, and manage concerns in relation to the risks.

### Better data

The analysis of existing supply constraints that is presumably undertaken to support the allocation of places through ACAR should be made public (at a suitably aggregated level) and used to support a deeper understanding of the nature and need for reform.

This should include analysis of whether and how quickly ACAR responds to identified supply constraints. Using ACAR, places and occupancy data it may also be possible to see how markets respond when supply expands.

Providers could also be surveyed to understand: whether they wish to expand or enter new markets; whether they believe they are constrained from doing so; the nature of these constraints; and why they may be holding non-operational places.

Consumers/families could be surveyed about whether they currently feel they have choice of providers; and whether they were unable to enter their first choice of service because all beds were full – noting that often the problem is access to a specific type of bed (such a bed in a memory support unit) which is often constrained by cost/funding rather than the number of ACAR places.

### Analysis of similar markets

Additional information about the likely effects of deregulation could be gathered through analysis of similar reforms in other industries (such as home care, child care and vocational education) or the analysis of more market driven approaches to allocating institutional long-term care places in other countries.

### Pilot a deregulated model

Consideration should be given to fully abolishing ACAR within a particular region and examining the impact that this has on the nature of the services that are available.

### Resolve other policy issues

For a more market based approach to the allocation of residential aged care places to function effectively there are many other policy issues that need to be resolved.

### Resolve problems with funding

Serious problems regarding both the quantum and allocation of existing funding structures make it problematic to proceed with reforms to encourage greater competition given that competition

would be occurring on the basis of funding mechanisms that have been identified as in need of reform.

#### Resolve issues regarding additional services and product differentiation

There is significant regulatory uncertainty regarding the use of additional services fees that discourage many providers from differentiating their offerings. There are also broader issues that need to be resolved such as the deregulation of the basic daily fee, and future policy regarding consumer contributions.

#### Develop mechanisms to support structural adjustment

An inevitable consequence of more competition is increased numbers of providers exiting. This has the potential to be messy and disruptive. A clear strategy is needed to support structural adjustment within the industry, including provider exit.

#### Develop mature mechanisms to support consumer choice

Mechanisms within aged care to support consumer choice are currently immature. Information provided directly by Government is of limited use, in part because it is difficult for Government to recommend a specific provider. Other generalised advice and individualised support is inconsistent and often unavailable. While work to develop stronger support for 'care navigation' is underway there is still significant work to do. Similarly, performance indicators that consumers could use to compare providers are not available – and the narrow set of non-risk adjusted clinical indicators that have recently been made mandatory are unlikely to be particularly useful for this purpose.

#### Develop a more robust strategy for ensuring access to respite and services for vulnerable groups

ACAR is one component of the policies used by the Government to ensure that vulnerable groups have access to appropriate services. However, a more holistic strategy is needed, including how to identify groups that may face access issues, how to ensure they have access to services and how to measure whether the programs that have been implemented have been successful.

### Reform ACAR

#### Make ACAR more transparent and better targeted

The drivers of place allocations through ACAR need to be reviewed and more clearly disclosed.

A framework for more rigorously evaluating supply constraints and unmet need should be developed. And addressing these supply constraints should be given greater priority in allocation decisions.

Improved transparency should also extend to disclosure of the timing of planned ACAR rounds well in advance.

#### Make ACARs more frequent

More frequent ACARs would allow greater responsiveness to supply constraints as they arise, though consideration would also be need to be given to ensuring consistency in allocation decisions between rounds.

### Tighten controls on unused places

Places that remain provisional or offline for significant periods of time should expire, unless the provider can clearly demonstrate extenuating circumstances.

### Loosen location restrictions in metropolitan areas

Provided the above occurs, locational controls (including state based controls) for metropolitan bed licenses should be removed, while maintaining current restrictions on the allocation of bed licenses in regional, rural and remote areas.

This will allow lessons from a more market based approach to be learned in the locations where there is the least risk of market failures. This experience could then be used to inform decisions about whether to loosen restrictions in thinner markets.

Provided ACAR retains a focus on allocating places to address capacity constraints or access problems there will continue to be some implicit locational targeting in the initial allocation even in the absence of explicit constraints.

Consideration should be given to making licenses freely tradeable, including allowing short-term leasing and more complex commercial arrangements and allowing vacant and offline places to be traded on a short-term basis.

This approach will allow the initial allocation of licences to be driven by existing administrative processes, but allow reallocation in response to market forces. Prices in this secondary market can be managed by Government through the release of additional places in subsequent rounds. Releasing these additional places should not have any effect on government finances as the number of places available does not appear to be the binding constraint on the number of people in residential care.