



Seniors Rights Service Submission

The Senate Select Committee on COVID-19

The Senate has asked for submissions addressing:

- a. the Australian Government's response to the COVID-19 pandemic; and
- b. any related matters.

Seniors Rights Service (SRS) is the leading community legal centre and aged care advocacy organisation representing the rights of seniors in NSW. The observations made in this submission are drawn from our ongoing advocacy and legal practice and from specific learnings in response to the outbreak of COVID-19 at Anglicare's Newmarch House in Sydney.

SSRS has been at the forefront of the community's response to this pandemic. As at the end of May, Seniors Rights Service had received almost over 992 calls specifically related to COVID-19. This represents an unprecedented increase in demand for our services across all areas of our practice and has given us an in-depth understanding of the many complex economic, social and psychological impacts the pandemic has had on senior Australians. We have also provided on the ground advocacy services to the residents and families at Newmarch House in Western Sydney, as that aged care facility responds to Australia's second biggest cluster of COVID-19 cases. It is this hands-on experience, along with that gained by handling so many COVID enquiries, that has formed the basis of the following recommendations.

About Seniors Rights Service: Advocacy, Legal Advice, Education & Social Support

Seniors Rights Service has been assisting older Australians across New South Wales (NSW) since 1986, providing individual and independent aged care advocacy and as a Community Legal Centre assisting people in retirement villages and assisted accommodation. Seniors Rights Service is the largest rights-based organisation for seniors in Australia. Last year Seniors Rights Service provided 3,422 legal services to older people, 4,451 aged care advocacy serves to recipients of aged care in NSW and conducted 1,042 education and rights-based awareness raising events across NSW that were attended by 34,366 people.

Our advocates assist recipients of all Commonwealth funded aged care services, their carers, family members or representatives to understand their rights under the Aged Care Act 1997. We help them to advocate for themselves to resolve issues and complaints with aged care providers to ensure optimal care is achieved. We provide independent advocacy to support those who are too frail or fearful for whatever reason, to speak for themselves. Advocates

provide information sessions to all people receiving aged care services to empower them to speak up and assert their rights, or to seek assistance with raising their concerns or a complaint. Seniors Rights Service is the NSW service delivery organisation (SDO) of the Older Persons Advocacy Network (OPAN).

Our legal service provides advice, assistance and education to older people in NSW. This includes consumer issues (debt management, unfair contracts), human rights (elder abuse including financial exploitation and family violence), planning ahead (wills, power of attorney, guardianship), accommodation issues (granny flats) and other issues. Our solicitors also provide advice to residents of retirement villages about issues arising from disputes with management or interpretation of contracts under the Retirement Villages Act (NSW) 1999. SRS also provides legal assistance to older residents of strata units.

SRS provides education across all areas of NSW to aged care facilities and a broad range of service providers as well as community groups to raise awareness of and protect and promote the rights of people accessing Commonwealth-funded aged care and services.

SRS Response to the Terms of Reference

Older Australians, and in particular those who are vulnerable, frail or have chronic illness, are particularly at risk of COVID-19. It has been estimated that the median age of Covid-19 fatalities in Australia is 80 years old, and that 29% of deaths in Australia have occurred at residential aged-care facilities.

SRS has received almost 900 calls specific to the pandemic since the beginning of March. These callers have expressed a range of concerns and fears including:

- their access to loved ones in aged care being restricted or prevented;
- how to ensure their relatives are getting proper care if they are not able to monitor the situation through daily visits. Many of these families are dealing with elderly loved ones who are dying, have dementia or other chronic illnesses and have relied on family supplementing their care;
- concerns about homecare and whether it is safe for their elderly relatives to continue to receive home care visits, and what impact cancelling these visits might have on their loved ones' safety and wellbeing;
- how to get information about changes in care plans and treatments once elderly residents leave hospitals and return to aged care facilities;
- how to ensure carers or community visitors infection control and do not pass on infection to residents or clients;
- financial stress brought on by the economic downturn due to COVID-19; and
- discrimination and abuse directed towards residents of retirement villages by operators and other residents.

SRS has also observed an increase in the number of older people reporting stress and anxiety to do with the impacts of COVID-19 on their lives, their increased isolation from family and caregivers, and greater potential for abuse, both financial and psychological, of older people where their family members are also under increased pressure and strain. Seniors Rights Service is anticipating that as the economic and social effects of the pandemic play out across the community in coming months, these impacts on older Australians will intensify.

71 cases of COVID-19 have been reported from Newmarch House, from 34 staff and 37 residents. In close collaboration with Older Peoples' Advocacy Network (OPAN), Seniors Rights Service set up a dedicated advocacy team specific to the needs of the representatives and family members of Newmarch House, and made contact with every person involved who wanted our support. In addition, the SRS Advocacy Manager visited Newmarch House over a week, and spoke to every resident who wanted contact as well as speaking to staff across the facility. SRS is currently holding weekly online meetings with family members and takes key themes back to the service provider so that family issues can be resolved as quickly as possible. This ongoing involvement with the families, residents and staff at Newmarch House ensures we are one of the few rights-based agencies that has developed the skillset to appropriately advocate for and support families directly impacted by a COVID-19 cluster within an aged-care facility.

As the effects of the pandemic play out across the community over the coming months and years, we estimate an increasing call on our services, concerning both possible further COVID outbreaks in aged care facilities along with increasing instances of financial abuse of older persons, domestic violence and abuse of the rights of older people to safe and consistent care and protection wherever they may reside.

Recommendation 1: *The Commonwealth Government, in consultation with relevant state government agencies, service providers and relevant stakeholders develop a framework for responding to crisis and emergency situations in the aged care sector that clarifies responsibilities between Commonwealth and state governments and service providers, and clearly identifies lines of communication.*

In responding to the situation of Newmarch House, and in particular talking with families and carers of residents, it has become clear that there was confusion about the roles of the Commonwealth Government, the Aged Care Quality and Safety Commission, NSW Health, OPAN and the operators of the facility (Anglicare), as well as the internal management of the facility. Consequently, families and residents did not know who was making decisions on their families' behalf, nor who to contact about their concerns. There seemed to be confusion about decisions that were being made and who was making them; and there was frustration expressed that it was taking a long time for the situation at Newmarch House to improve, or for decisions that had been taken, to be implemented. Seniors Rights Service believes that it is critical that there is a method of liaising with all sectors of government and to identify who is responsible for different areas of the response and to delegate these responsibilities. It is then imperative that these arrangements are clearly communicated to all stakeholders.

Many Newmarch families have expressed frustration at the lack of a clear path for communications about the situation and about who was in charge of different aspects. Seniors Rights Service believes that a framework for response that simply sets out key responsibilities would be beneficial to all stakeholders. For example, it was not clear to families and residents who was responsible for making the decision to restrict visits to residents and therefore, who they could appeal to for an exemption to this rule in a particular circumstance (for example, where a resident was dying). This lack of a clear response

framework led to the appearance of a fragmented response, and the feeling for many that 'nothing was being done' or that no one knew who was in control of the situation.

Similarly, the return of the possessions of loved ones who had died took several weeks and this was because of the intersection of Commonwealth, state and industry regulation but difficult to succinctly explain to distressed family members.

Recommendation 2: *The Commonwealth Government support OPAN and the state-based Service Delivery Organisations across Australia to deliver a communication and training program for all aged care services, including home care and community visitor schemes, on the role of community advocacy and legal services and how these services can provide support to older people and aged care facilities in responding to pandemics and other national emergencies.*

Service Delivery Organisations, including Seniors Rights Service, are dedicated to protecting and advancing the rights of older people, particularly those who are vulnerable and disadvantaged. In providing free and confidential advocacy and legal support, they ensure that the rights of older people are protected and respected. SDOs assist older people who receive Commonwealth-funded aged care services at home or in residential care, as well as their carers or family members.

Seniors Rights Service believes that outcomes for older people in aged care homes are improved when advocacy services are present and it should be made mandatory for all aged care providers, including home care services, to undertake education sessions about the rights of older people. It is essential that all aged care providers receive this service annually rather than sporadically as it is currently implemented. Aged care providers who are aware of aged care advocacy services generally can have matters dealt with early rather than let them fester. While all of OPAN's state delivery organisations deliver independent advocacy education to aged care providers, it is not mandatory and Seniors Rights Service has found that, despite being offered free education, some providers still decline this service. For example, in 2018-19, as well as the 272 booked education sessions we provided to residential care recipients and their representatives, SRS promoted free training for residents and staff to another 60 providers and we only received 20 acceptances for the training. Further, some providers still do not welcome aged care advocates to conduct education or one-on-one advocacy to the aged care recipient.

Many older people who contact SRS for assistance are in their late 80s and 90s and are frail. Often they do not have family or friends to support them to raise issues of concern, or to speak up for them if they need assistance to raise their concerns. Many older people do not know about the role of advocates, or the availability of independent advocates who could support them to raise and resolve issues early. Our experience shows that where they can access advocates, their issues can often be resolved easily once they are identified, and the quality of services for all consumers, improves as a result.

SRS suggests the above training should be compulsory for residential aged care facilities, for home care services and for the Community Visitor Scheme and that it should be conducted annually. Also, SRS recommends that managers as well as front line staff, be required to

attend sessions. We applaud the aged care providers who ensure all staff, including kitchen, garden and maintenance staff, attend sessions run by aged care advocates as it may well be these people who observe something in the older person or situation that requires addressing. These aged care facilities seem better equipped to deal with arising issues compared to those facilities that do not engage with aged care advocacy services and educations.

Recommendation 3: *The Commonwealth government provide support to OPAN and the state-based Service Delivery Organisations as soon as there is any cluster of COVID cases in an aged care facility to establish an emergency response team of advocates who can immediately support residents and families throughout the crisis.*

Community-based service delivery organisations, such as Seniors Rights Service in NSW and other state-based community organisations, are an essential part of any response to an emergency that might arise in an aged care facility. They can provide independent and informed advice and support that is immediately available to residents and their families and carers. As an example, SRS is able to provide a suite of rights-based support services that are part of a holistic approach involving advocacy services, including psychological and social welfare support as well as legal advice and practical information. Putting in place this advocacy support during the crisis at Newmarch House assisted residents, their families and their representatives to voice their concerns, and to navigate the complex and somewhat confusing lines of responsibilities. Assisting families to express their concerns to the facility management about many aspects of care during the crisis and to get these addressed as a matter of priority was important to ensuring procedural transparency and responsiveness, especially when families were not able to enter the facility themselves.

Recommendation 4: *The Government require aged care facilities to create a communications plan that ensures residents and families are at all times kept informed of the state of the pandemic crisis in their facility and what measures are being undertaken to respond to it and ensure the safety of residents and staff.*

One of the key learnings from the recent crisis at Newmarch House has been the importance of a clear and immediate source of information about the crisis and response. A communications plan should be developed immediately any crisis is identified, including any cluster of COVID-19 cases. This plan should identify key stakeholders and how and when they will be communicated with, and should clarify the roles and responsibilities of all parties during the crisis. A lack of clear communication and information can cause unnecessary distress and confusion for people who hold grave fears for their loved one's safety and care. A communications plan is a key tool in ensuring transparency and accountability to all stakeholders effected by the crisis – families and including other support services such as advocacy services that work with those families.

Recommendation 5: *The Commonwealth government ensure that all aged care support staff, including casual agency or replacement staff, are suitably trained in the requirements of PPE and infection control prior to being employed.*

Recent experience at Newmarch House suggests that not all staff were trained in the correct PPE procedures and infection control. In particular, SRS has heard that casual and replacement staff had not had this training and that this held up the process of bringing replacement staff into the facility quickly. With a virus that is as infectious as COVID-19, infection control and proper use of PPE is fundamental to controlling the spread of the infection. Any outbreak should ensure that facilities are well equipped with not only PPE but also every detail of using and disposing of PPE to ensure no transmission occurs.

Conclusion

As a service provider on the front line of the COVID-19 pandemic, Seniors Rights Service has seen first hand the disproportionate effect of the pandemic on older Australians. SRS expects to see an increasing call on our services as this pandemic plays out across the community in coming months. The immediate impact of the virus on health of many older Australians is clear. However, SRS is also concerned that even once the virus has been brought under control, there will be long term effects that will play out in coming months and years. COVID-19 has had a significant impact on the mental health of older Australians, many of whom have become increasingly isolated from families, grandchildren, friends, and carers. Many of the social activities that seniors commonly participate in have been closed. The psychological impact of this sudden isolation will be long felt. SRS has identified that callers to our service are more anxious and fearful and many are highly emotional and require longer consultations, and social support. This has put an additional strain on our already stretched resources.

SRS is also anticipating that with economic hardship being experienced across much of the Australian community, there will be more pressure on older Australians to support their families and this could lead to an increase in financial abuse and family violence. Seniors Rights Service legal team is preparing for the post-Covid influx that is highly anticipated long after the immediate devastating impacts of the virus have declined.

Therefore, Seniors Rights Service strongly recommends that whatever additional resources are made available to the community sector to deal with the impacts of COVID-19, will need to be put in place for the medium to longer term. COVID-19 should not be seen as one-off short-term event that we managed to control. The effects on senior Australians of the COVID-19 pandemic will be felt for many months, if not years, to come.

Seniors Rights Service
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