



## From the politicians

*see pages 3 & 8*

***“I would not want my Mum in some of those places”***

Daniel Andrews, Media Conference, 29 July 2020



**Daniel Andrews Premier Victoria**



**Greg Hunt  
Minister for Health (federal)**

***“The idea that our carers, that our nurses are not providing that care, I think is a dangerous statement to make. They are wonderful human beings and I won’t hear a word against them”***

Greg Hunt, Minister for Health, Media Conference, 30 July 2020

### Home care

***equality with residential care***  
***massive unspent funds***

*see page 2*

### Royal Commission

*12 August 2020*

***a day of damning evidence***  
***bureaucrats embarrassed***

*see pages 4-6*

### COVID 19

**St Basil’s Homes for the Aged**

***one of the worst outbreaks***

***site accreditation audit in 2019***  
***& the infection control requirements***

*see pages 7 & 8*



## Casting a forensic gaze on home care

Over 3 days in Sydney from 31 August to 2 September, the Royal Commission heard from 26 witnesses (academics, bureaucrats and home care recipients) about flaws in the home care system and options for improvement. Among notable points were a proposal that the maximum government funding for care at home should match the maximum currently available for care in a nursing home and a revelation that little is known concerning expenditure patterns of those receiving home care.

### Equalise home care

The maximum level of annual funding for care at home is about \$52,250 while the maximum funds for care of a nursing home resident, as at March 2020, was a little over \$80,000 (*See Newsletter, July 2020*).

Counsel Assisting proposed that the level of funding available for home care should increase to the maximum that a particular individual would receive if assessed for nursing home care (*Transcript: 8823*).

### Unspent funds

Regarding unspent funds, Counsel Assisting P. Gray QC, says funds of about \$1 billion could be deployed to release more packages to meet the needs of people waiting in the queue.

### Lack of knowledge

The government knows little about the *clinical*

### Home care packages

Assessed needs	Funds per year
Level 1 basic	\$9,000
Level 2 low care	\$15,750
Level 3 intermediate	\$34,500
Level 4 high care	\$52,250

Figures are approximate. *Transcript: 8819*

*capability* of home care providers because little is known about the services being purchased by those with packages.

### “15 minutes of nursing”

One large sample survey by the Department of Health however showed extremely low use of nursing and allied health services even by those with complex needs: an average of only 15 minutes per fortnight for nursing and the same for allied health. A question posed was: should there be a minimum contact period for this level of need? (*Transcript:8825*).

### DID YOU KNOW?

#### Residential care high in Australia

In Australia 19 per cent of people over 80 live in nursing homes, the highest currently reported among OECD countries. In Canada and Scandinavia it is 12-13 per cent and about 14 per cent in New Zealand *Transcript: 8813*.

#### Unspent funds

As at March 2020, it is estimated accumulated unspent funds allocated to home care recipients exceeded \$1 billion (\$1,000,000,000). The money is held by providers on behalf of their clients *Transcript: 8823*.

#### Death rates

As at 30 August 2020, there had been seven deaths amongst nearly 1 million Australians receiving subsidised home care and 400 deaths among about 200,000 Australians in nursing homes *Transcript: 8813*.

## From the politicians *seize the moment, ignore past sins of omission*

The tense exchange between the Premier of Victoria and the federal Minister for Health in the wake of the dramatic events in some Victorian nursing homes in the final week of July 2020 illustrates a politician's skill in seizing an opportune political moment for political gain while ignoring a disgraceful track record.

### **Political cooperation**

Co-operation between a State Labor government and a Liberal-National federal government was a positive feature of the political class in the early days of this pandemic. The peace was first shattered at the end of July.



### **Side swipe**

Daniel Andrews' side-swipe on 29 July at the quality of care in private nursing homes and implicitly at federal Government regulation, was countered the next day by the federal Health Minister.

### **Heart-warming**

Greg Hunt's indignant and passionate defence of those who provide hands on care in nursing homes was, on the face of it, heart-warming.



### **Hypocrisy**

Since 2013 however, has the Government of which he is a part stood before the Fair Work Commission and supported wage increases for these workers? Has it taken any action to require improvements in staff numbers per shift or sought to mandate an increase in registered nurse hours as a proportion of total care hours? Has it tied funding to nursing homes to a wage increase? Has it supported transparency in expenditure on staffing and food in nursing home accounts? The answer is no.

We know the COVID catastrophe in aged care is not the fault of the staff so whose fault is it Minister?

### **Psychic income**

So we go from heart-warming to yet another example of a dose of the psychic income dispensed so cheaply by politicians to aged care employees.

### **Valuable action**

In the past, the Andrews government has improved aged care. In 2014, it committed to end the sell-off of public nursing homes to the private sector. In 2015, it legislated minimum staff-resident ratios in public nursing homes. In 2018, it invested \$56 million in a public 90 bed nursing home at St George's Health Service in Kew.

### **Federal Labor not much better**

At the federal level however, Labor has not been much better than Liberal-National governments.

*continued page 8*

## Royal Commission: COVID-19 12 August 2020

### *a day of damning evidence, bureaucrats embarrassed*

The week beginning 10 August saw drama in the Royal Commission as it examined, at the Prime Minister's request it should be noted, the government's response to the corona virus pandemic. There was excoriating criticism of government from witnesses but also from Counsel Assisting followed by strong push-back from both politicians and bureaucrats. The most telling day was Wednesday 12 August and key features of that evidence are detailed here.

#### **No aged care experts**

The first witness was Professor Ibrahim from Monash University who argued the authorities failed to include experts in the aged care work environment in the planning of the response to the pandemic.

#### **Bureaucrats under fire**

Counsel Assisting had to tell witnesses from the Department of Health and the Quality and Safety Commission to answer the questions rather than avoid them or fudge answers.

#### **Testy exchanges**

The senior bureaucrat in aged care, Michael Lye, was given a hard time as were the Aged Care Quality and Safety Commissioner and, at the outset, Professor Brendan Murphy. Mr Lye was quizzed aggressively

about, *inter alia*, versions of the planning document and the Commonwealth role and about a disclaimer which said there was no guarantee the guidelines were "accurate, current or complete". He did not fare well.

#### **Likely staff absences**

Witnesses were challenged on the preparation for likely 'staff absentee scenarios' and on the seeming conflicting advice to providers. A contested point was the location of responsibility for dealing with large scale absences.

#### **Newmarch House**

Counsel Assisting made much of the Newmarch House precedent where more than 80 per cent of staff was lost. The belated contracting of agencies *Mabel* and

*Aspen* to provide surge workforces was highlighted. Initially Newmarch found *Mabel* staff lacked ability with PPE.

#### **Information misstep**

The Quality and Safety Commissioner was questioned on the Commission's failure to pass on information it received about the St Basil's outbreak. St Basil's had notified the State public health unit but not the federal Health Department as required by law. The media made much of what had become a four day delay.

#### **Provider self assessment**

The Commissioner was taken to task about the Commission's self-assessment survey of providers. This proved to greatly understate provider preparedness.

*continued page 6*

## Royal Commission 12 August 2020

### COVID 19 planning & management weaknesses exposed

#### Battle for Minister's attention

*“Our first call to alert the Minister and therefore the sector to the need for urgent attention to increased staffing and skills was on 4 March... we didn't get a meeting until the 4 April despite insistence ... I had to go through Minister Hunt's office to try and increase our concerns and unfortunately to use the media to try and get proper attention on this issue”.*

*“...the federal Government .. has put quite a bit of additional funding into the sector .. supposed to be dedicated for staffing and skills but there's no accountability. There's no checking of where that money has gone .. exactly how and where [providers] have increased the skills....*

A. Butler, [Transcript](#): 8618



Annie Butler  
Federal Secretary, ANMF



Professor Brendan Murphy  
Secretary, Department of Health

#### Aged care expertise absent from panel

**PROF MURPHY** *“the chief health or medical officers are the core composition [of the Australian Health Protection Principal Committee] .. but there are a range of other experts including emergency management, defence force and public health laboratory and we co-opted some..a series of academic experts....*

**MR ROZEN:** *.. None of them is a geriatrician or has any particular aged care experience ...?*

**PROF MURPHY:** *No, not of that core group but .... at every stage we've had aged care advice, engagement with geriatricians, aged care peaks [examples ACSA and Leading Age Services]*

[Transcript](#): 8639



Professor Joe Ibrahim  
Health Law and Ageing Research Unit  
Department of Forensic Medicine  
Monash University

#### Self-appointed regulator of COVID 19

*“I still don't understand why the regulator took on the role of pandemic management. It's not within their remit [ACQSC sent out a self-assessment survey] If you ask people ‘Are you doing your best? Everyone is going to say yes. But its not about doing your best. Its understanding what you actually need to do”*

J. Ibrahim, [Transcript](#): 8585

## Royal Commission 12 August 2020

### *providers over-confident; PPE training deficient*

*continued from page 4*

#### **NSW Health v federal**

The disagreement between NSW Health and the federal Health Department about moving infected residents to hospital was explored. It emerged that NSW Health had won the day.

#### **Varying expertise**

Infection control expertise was available from the outset at Dorothy Henderson Lodge but not at Newmarch House.

#### **Belated masks decision**

Professor Murphy conceded that the decision to make masks compulsory in Victorian homes came too late. He had the last word however.

The day began with the Department Head being denied his unorthodox request to make a statement defending the government's response to COVID, a tense moment highlighted in the media. The day ended with his request granted. A vigorous defence followed, an event not captured by the media.



**Janet Anderson**  
*Aged Care Quality and Safety Commissioner*

#### **Error acknowledged**

**MR ROZEN:** *“on the one hand, you’ve got Newmarch House saying we are best practice, and then when you actually investigated their circumstances, they were found to be anything but best practice. So what do you learn from that as a regulator ...?”*

**MS ANDERSON:** *“we have become more questioning and we have deployed a number of additional regulatory activities .. to prompt activity or action by providers”*

Transcript: 8661

#### **Lack of PPE training**

**MR ROZEN:** *..PPE training, was it a mistake not to make it compulsory for aged care workers?*

**MR LYE:** *.. You need to have very specific tutelage and... not allow agency staff on site without making sure that they’re proficient .....*

**MR ROZEN:** *So what’s the answer to my question, Mr Lye, was it a mistake not to make it compulsory ...?*

**MR LYE:** *.... I accede to what you are saying, that not only should it be mandatory but that we could insist on a much higher standard going forward .....*

Transcript: 8677-8678



**Michael Lye**  
*Deputy Secretary, Ageing and Aged Care Commonwealth Department of Health*

## St Basil's Homes for the Aged

### *one of the worst outbreaks*

### *accreditation audit 2019: the infection control requirements*

Multiple deaths from COVID-19 in two NSW homes, Dorothy Henderson Lodge and Newmarch House were an initial shock but they paled against the later deaths in Victorian homes. Probably the worst outbreak was at St Basil's in Fawkner, where a total of 195 residents and staff were infected and more than 30 of the 120 residents died. The deaths will be investigated by the State Coroner and in late August the provider, the Australian Greek Orthodox Church, was served with a Supreme Court writ by Carbone lawyers. The writ alleges a breach of duty of care on more than 26 occasions which contributed to the rapid spread of the virus.

#### Accreditation audit

In July 2019, St Basil's was audited by the Aged Care Quality and Safety Commission. It passed all eight standards, which had been revised in 2019, and was re-accredited until November 2022.

#### Infection control

From a hindsight perspective, it is useful to consider what the standards require in terms of infection control. The requirements appear in Standard 3 *Personal and clinical care* which is part of the *Quality of Care Principles, Schedule 2*. The relevant sections are set out in the adjacent text box.

#### Commission's finding

The Quality and Safety Commission Report included very brief



#### Aged Care Quality Standards *infection control*

*“(3) The organisation demonstrates the following:*

*(a) each consumer gets safe and effective .... personal care and clinical care, that:*

*(i) is best practice; and*

*(ii) is tailored to their needs; and*

*(iii) optimises their health and well-being;*

*(g) minimisation of infection-related risks through implementing: (i) standard and transmission based precautions to prevent and control infection; .....”.*

Extract from *Quality of Care Principles* 2014 as amended to November 2019, Schedule 2 (*emphasis added*).

findings relevant to infection control: *“Staff practices demonstrated knowledge of care recipients needs and infection control. .... Infection control strategies are implemented as needed...”* (Report, page 7).

Such brief comments are typical of all sections of the Commission's published report.

#### Review likely

No doubt a review of infection control skills

*continued page 8*

## St Basil's accreditation audit infection control skills

*continued from page 7*

will be part of any post-COVID analysis and one might expect a revision of the notion of **“best practice”** in relation to infection control. The comment by senior health bureaucrat, Michael Lye (*see above page 6*) regarding PPE training requiring a **“much higher standard”** in future is likely to be widely accepted.

### Coroner & Commission

The Coroner will no doubt recommend changes in infection control practice in due course although the Royal Commission will be first cab off the rank with a report on COVID-19 due on 30 September.

### Supreme Court

Then there is the long haul of possible Supreme Court proceedings as 25 families have signed up to a class action saying St Basil's neglected residents while receiving federal government subsidies to be used for their care (*The Age*, 27 August 2020).

## From the politicians

*continued from page 3*

**Federal Labor on a par**  
There was the 2011 Productivity Commission inquiry which did nothing for the quality of care. Mark Butler was Minister for Ageing from 2010 to 2013.



**Mark Butler**  
*Minister for Ageing 2010-2013*

After entering parliament in 2007 he had said:

***“If there is only one thing I could do in my time in this place it would be to get a better deal for low paid workers in Australia”***

Extract from maiden speech,  
House of Representatives,  
18 February 2008

In 2011 he also said:

***“.. It's an equity issue essentially ..... Aged care workers are doing incredibly important work ..... and quite frankly they could often earn more down at the local pub”***

M. Butler cited in D. O'Keeffe and N. Egan, 'Government to act on Cert III quality concerns in aged care', Nursing Review, September 2011:4.

Labor did attempt a wage increase through tied grants to providers but the plan came unstuck through clumsy, complex execution and through providers muddying the waters by responding with a contrived ideological war claiming the proposal would require employees to join unions. From 2007 to 2013 however, Labor did nothing about staffing levels or requirements for English language skills.

### Independence

Elder Care Watch is independent and does not seek or accept funds from governments or private organisations.

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