Australian Government

Department of Health

Increasing Choice in Home Care

Standard Form
Regulation Impact Statement

REGULATION IMPACT STATEMENT

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Purpose

Policy context

Australians are living longer and healthier lives and it is important that as people age, they have choice about their care. To support this objective, the Government announced significant reforms to home care in the 2015-16 Budget (*Increasing Choice in Home Care*, previously referred to as the *Increasing Choice for Older Australians* measure).

The reforms will support consumers[1] to receive the services they need. At the same time, the reforms will strengthen the aged care system to provide high quality and more innovative services through increased competition. The changes will build on the current consumer directed care (CDC) approach in home care and will be introduced in two stages.

From February 2017 (Stage 1), funding for a home care package will follow the consumer. This will make it easier for consumers to select a home care provider and to change their provider should they wish to do so. The current requirement for providers to apply for home care places will be removed, significantly reducing red tape. The changes will give older Australians greater choice in deciding who provides their care and establish a consistent national approach to prioritising access to care.

From July 2018 (Stage 2), the Government intends to integrate the Home Care Packages Programme and the Commonwealth Home Support Programme (CHSP) into a single care at home programme to further simplify the way that services are delivered and funded.

This Regulation Impact Statement (RIS) relates to the first stage of the home care reforms. The RIS provides background information on the current operating environment, including recent reforms relating to home-based care programmes, and addresses the following questions:

1. What is the policy problem/s?
2. Why is government action needed?
3. What policy options have been considered?
4. What is the likely net benefit of the policy options?
5. Who has been consulted?
6. What is the best option?
7. How will you implement and evaluate the chosen option?

A separate RIS will be prepared for the second stage of the reforms following consultation with stakeholders on options for programme design, funding models and implementation. These consultations will commence in the coming months.

The Office of Best Practice Regulation (OBPR) has provided feedback on the RIS. Cost estimates have also been agreed with OBPR.

In this document, ‘the Department’ means the Commonwealth Department of Health unless specified otherwise.

[1] The term ‘consumer’ is used in a policy context, rather than ‘care recipient’ which is used in the legislation.

Background

Consumer demand and preferences

The 2015 Intergenerational Report[2] shows that the number of people aged 65 and over is projected to more than double from 3.6 million people (15 per cent of the population) in 2014-15 to 8.9 million (23 per cent) by 2055 . The highest growth rate of all age groups will be for people aged 85 years and over, almost quadrupling current numbers (500,000 in 2015), to reach 2 million by 2055. By then, people aged 85 years or over will make up five per cent of Australia's population, compared to only two per cent in 2015. Among other considerations, such as health and housing, growth in this age group has particular implications for the current and future demands on aged care services.

The majority of older Australians live active and independent lives. Sixty eight per cent of Australians aged 65 years and over currently live at home without accessing Government subsidised aged care services, twenty five per cent of elderly people live at home with some Government-subsidised aged care services and about seven per cent of elderly people live in residential aged care.[3]

As the population ages, demand for assistance to live at home is expected to remain strong and Government support will be sought. In 2014-15, the average age of entry into a home care package was 82.5 years.

Older Australians have a strong preference for continuing to live in their homes and communities for as long as possible. They also want to have a much greater role in decisions about their care, including what services are provided, by whom and when. This is consistent with the move to CDC in the home care and the disability sector. CDC is explained below.

Current operating environment – home-based care programmes

The Australian Government provides funding to support older people to remain living at home through two main programmes:

- Commonwealth Home Support Programme
- Home Care Packages Programme

The programmes have similar objectives – to support older people to remain living at home for as long as possible and to delay admission to permanent residential care.

The Commonwealth Home Support Programme focuses on supporting older people with less intensive or intermittent care needs and their carers. The Home Care Packages Programme focuses on supporting older people who require more intensive care and services including ongoing case management and care co-ordination.

Commonwealth Home Support Programme

The CHSP commenced in July 2015, replacing the former Commonwealth Home and Community Care (HACC) Program, National Respite for Carers Program (NRCP), the Day Therapy Centres (DTC) Program, and the Assistance with Care and Housing for the Aged (ACHA) Program.

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[2] Commonwealth of Australia, *2015 Intergenerational Report*, p. 12.

[3] Department of Health, *2014-15 Report on the Operation of the Aged Care Act*, p. 7.

The CHSP is the entry level of Australia's aged care system for older people who need assistance with daily living to remain living independently at home. The CHSP funds organisations (service providers) to provide a range of services including domestic assistance (e.g. cleaning, gardening and home maintenance), personal care, nursing and allied health services, meals, transport, social support and respite care. Consumers effectively choose services that meet their needs from a menu of services offered by local providers.

The largest component of the CHSP is services previously funded under the Commonwealth HACC Program. In 2014-15, the Australian Government provided funding to approximately 1,100 providers to support 530,000 consumers through the Commonwealth HACC Program. Total programme funding for 2014-15 was $1.3 billion. In addition, the Commonwealth provided $580 million for services to older people in the HACC programs in Victoria and Western Australia.

Home Care Packages Programme

The Australian Government supports older people to remain living at home through the Home Care Packages Programme, with four levels of packages available to eligible consumers (with basic subsidies currently ranging from $7,942 to $48,184 p.a.). Additional supplements are also payable to the provider, depending on the particular needs and circumstances of the consumer.

The Home Care Packages Programme commenced in August 2013, replacing the former Community Aged Care Packages (CACP), Extended Aged Care at Home (EACH) and Extended Aged Care at Home Dementia (EACHD) programmes.

A range of co-ordinated services can be provided under a home care package, including assistance with personal care and activities of daily living, support services (such as cleaning, gardening, transport, home maintenance, social support and respite care), some aids and equipment, and clinical care. Home care level 3 and 4 packages have a greater emphasis on delivering complex care in the home, including more clinical care where required.

The Home Care Packages Programme is a subsidy-based programme administered under the *Aged Care Act 1997* (the Act). Payments are made by the Department of Human Services (DHS) to approved providers for eligible consumers.

To be eligible for a package, a consumer has to be assessed and approved by an Aged Care Assessment Team (ACAT). Subject to availability, the consumer can then be offered a package by an approved provider. Home Care Packages must now be offered to consumers on a CDC basis (explained in more detail below).

Each provider has a limited number of packages determined by the Government – these packages (home care places) are allocated through the Aged Care Approvals Round (ACAR).

At present, new home care packages are allocated to providers at a regional level through the ACAR. This is a large competitive process, conducted in accordance with Part 2.2 of the Act and the Allocation Principles.

Planning and allocation associated with the ACAR occurs at the regional level, i.e. Aged Care Planning Regions determined under section 12-6 of the Act. The aged care planning ratio is set by the Government as a means of controlling financial expenditure. The current planning target is 45 home care places per 1,000 people aged 70 years and over by 2021-22.

In 2014-15, the Australian Government provided funding of $1.364 billion to 504 approved providers, in respect of 83,800 consumers under the Home Care Packages Programme.

There is no standard fee schedule or regulated price for the various kinds of services that can be delivered under a home care package. However, consumers are expected to make a contribution to the cost of their care. Under the aged care legislation, a consumer may be asked to pay a basic daily care fee of up to 17.5% of the basic rate of the single age pension, plus an income tested care fee if their income is over a certain amount. Details of the care fees payable in home care packages are available on the My Aged Care website.[4]

Consumer Directed Care
Since 1 July 2015, all home care packages (around 73,000) have been required to be delivered on a CDC basis.

CDC gives consumers greater flexibility in determining what level of involvement they would like to have in managing their own home care package. Consumers and providers work in partnership to identify the consumer's goals and needs, which form the basis of a care plan.

While the total amount of care and services will be limited by the level of the package, approved providers are encouraged to sub-contract or broker services from other service providers in order to deliver the range of care and services agreed between the approved provider and the consumer.

CDC also provides consumers with clear information about what funding is available for their care and services and how those funds are spent through an individualised budget and monthly income and expenditure statements. These tools ensure that providers and consumers have a shared understanding of available resources and how those resources are being expended to meet the consumer's needs.

An independent evaluation of the CDC pilot initiative was undertaken by KPMG in 2012. The evaluation found that, even after a short period of operation, there were positive outcomes associated with the increased levels of consumer choice and control. This included increased consumer "satisfaction with various aspects of their life" as well as a greater level of satisfaction with the quality of care they received. [5]

The expansion of CDC across all home care packages in July 2015 was an important step in moving to a consumer-driven system, but further reform is required to fully empower consumers to be in control of their care. Through the introduction of CDC, many consumers now have more choice as to how their care is delivered, with increased transparency over what budget is available and how funds are spent. However, there is limited portability for consumers if they wish to change their provider or move to another location. In some cases, services can be delivered by another service provider under sub-contracting arrangements, but this is not available to all consumers.

The home care reforms announced by the Government in the 2015-16 Budget will build on the current CDC approach to provide greater choice, flexibility and control to consumers.

[4] www.myagedcare.gov.au/
[5] KPMG, *Evaluation of the consumer-directed care initiative – Final Report*, 2012, pp. 67-68

Future aged care reform

An Aged Care Sector Committee has been established to assist in the co-design of future reforms. The Committee has an independent chair and includes representatives from across the aged care sector and the Department.

In 2014, the Committee and the Government developed the Aged Care Sector Statement of Principles to guide continuing reform of the aged care system and to embed a lasting partnership between the Government, consumers, providers and the workforce.

The Principles for the aged care sector of the future are:

- consumer choice is at the centre of quality aged care;
- support for informal carers will remain a major part of aged care delivery;
- the provision of formal aged care is contestable, innovative and responsive; and
- the system is both affordable for all and sustainable.

Moving to a market-based system is central to the Government's plan for the future. The Productivity Commission stated that competition, rather than extensive regulation, is the key to delivering innovative, quality services and an efficient and sustainable system. These remain important drivers for future aged care reform.[6]

In 2015, the former Assistant Minister for Social Services, Senator Mitch Fifield, asked the Aged Care Sector Committee to develop an Aged Care Roadmap, building on the Aged Care Sector Statement of Principles, to help guide future reforms.

The Committee has now provided advice to the Minister for Aged Care. The Roadmap provides the Government with the sector's best advice on future reform, and how it should be staged. The Aged Care Roadmap sets out a long term vision for the sector, with key actions that will lead to a market based, consumer driven and sustainable aged care system.

The aged care system has seen many changes since the Productivity Commission put forward its comprehensive vision to transform aged care, and the Aged Care Roadmap enables the Government and the sector to prioritise what more needs to be done.

[6] Productivity Commission Inquiry Report, *Caring for Older Australians*, 2011

1. What is the policy problem?

Overall, the aged care system in Australia is world class and well respected, with high quality services that reach and meet the needs of a very diverse population. However, as people are living longer thanks to better health and better health care, the demands on Australia's aged care system are changing.

Within this context, the home care system in Australia has a number of weaknesses. These include:

- limited choice and flexibility for consumers in the current care at home arrangements, including a lack of portability;
- a high regulatory burden for service providers in applying for new home care places through the ACAR and in becoming an approved provider under the *Aged Care Act 1997*; and
- lack of a consistent national approach to prioritising access to home care.

Limited choice and flexibility for consumers in the current care at home arrangements, including a lack of portability

At present, most consumers have limited choice and flexibility as to whom delivers their care and services. This will become a critical issue with the passage of baby boomers into older ages, a cohort that significantly differs economically, socially, and culturally from the previous generation.[7] Changes in consumer expectations will increasingly act as a driver for change, with older Australians wanting more choice and flexibility in what services are available to them and how they are delivered.

Under the current home care arrangements, once a consumer has been assessed and approved as eligible for a package by an ACAT, a consumer must find an approved provider with an available package that is suitable for the consumer's needs. In some cases, this limits consumer choice, as providers can only accept new consumers if they have not exceeded their allocation of places.

Lack of timely access to care and limited consumer choice were identified as some of the weaknesses of the aged care system in the Productivity Commission's 2011 *Caring for Older Australians* report. Qualitative research commissioned by the former Department of Health and Ageing[8] with forums of older people and their carers also identified a number of recurring themes in their attitudes to aged care. A key theme was that older people want to have choice about their services, provider and support, which was seen to afford greater control over their lives.

As each package is currently allocated to a particular provider in a specific aged care planning region, rather than to an individual consumer, there is also limited scope for a consumer to change provider. This could happen, for example, if the consumer is not satisfied with care and services being provided or if the consumer moves to a different region. In such cases, it can be difficult for consumers to change providers without a disruption to their care. The consumer may need to wait for a suitable place to become available with their preferred provider, often involving an extended waiting period or receiving a lower level of services as an interim arrangement.

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[7] Hugo, G. The Demographic Facts of Ageing in Australia – July 2014, p 17.
[8] COTA. Conversations on Ageing sessions – August 2011 to February 2012.

At present, a consumer may accumulate unspent funds or contingency funds (an amount that is the balance between fees and subsidy and expenditure under a package). The unspent funds may be accumulated as a result of a decision by the consumer to make provision for emergencies, unplanned events or increased care needs in the future. Unspent funds can be retained by the approved provider when a consumer no longer receives home care from that provider, which is sometimes a financial disincentive to move to another provider and further limits portability.

A high regulatory burden for service providers in applying for new home care places through the Aged Care Approvals Round

The current system of allocating new home care packages is governed by the provisions of the Act and relevant Principles, and acts as a regulatory barrier for new providers and existing providers wanting to expand their business.

Under the current arrangements, in order to receive a home care subsidy from the Australian Government, a provider must be approved by the Department as an "approved provider" under the Act and have an allocation of places under the Act. Places are allocated to providers through a competitive process known as the ACAR. The ACAR is managed by the Department and is usually conducted on an annual basis.

The ACAR allocates a finite number of aged care places to those applicants who best demonstrate they can meet the needs of the ageing population within a specified aged care planning region. Providers are required to submit a detailed application which includes information such as their capacity to provide services including relevant service delivery experience, management and workforce capability, service philosophy, approach to CDC, and where relevant, ability to provide services to special needs groups as defined under the Act.

In recent ACARs, there has been strong competition for new home care places, with a large number of unsuccessful applicants in each round. In the 2014 ACAR, providers applied for 108,281 home care places in respect of the 6,653 places available. In the 2015 ACAR, providers applied for 126,826 home care places in respect of the 6,045 places available.

While the ACAR application process has been simplified in recent years, it still presents a significant regulatory burden on providers.

The current process and criteria for becoming an approved provider are considered outdated and inefficient. The suitability criteria (described in section 8-3 of the Act*)* have not been substantially changed since 1997. Stakeholder feedback indicates that the current criteria unduly focus on key personnel (who may change over time) rather than on the capacity of the organisation to provide care in accordance with the legislation.

Providers must go through separate processes to be approved as a provider for home care and residential care, despite significant overlap in the types of details required under both applications.

This creates a red tape heavy process for becoming an approved provider. As a result, some potential providers are discouraged from entering the market.

Lack of a nationally consistent approach for prioritising access to care

At present, home care packages are allocated to providers and individual providers manage their own waitlists. Once a consumer has been assessed and approved as eligible to receive subsidised home care, they must find a provider with a suitable package level. There can be a delay in accessing a package in some areas, particularly for consumers seeking a higher level care package.

It is at a provider's discretion to whom they offer a package. There can be significant variation in the waiting periods for packages across Australia with no systematic way of measuring or addressing the variation, or ensuring that those with the highest care needs receive care as a matter of priority.

Whilst the current system of allocating home care packages to a provider through the ACAR aims to achieve an equitable distribution of the total number of packages, there are still significant variances in distribution, waiting times and access between states, regions and local areas within regions.

2. Why is government action needed?

The Government's role in aged care

The aged care system aims to improve wellbeing for older Australians through targeted support, access to quality care and information services. Currently, over one million older Australians receive aged care services each year. By 2050, over 3.5 million Australians are expected to use aged care services.

The Australian Government has principal responsibility for aged care planning, funding and regulation. In its 2011 inquiry, the Productivity Commission found there are strong rationales for government involvement in aged care, including promoting equity of access to appropriate care, the protection of vulnerable consumers and the correction of market failures such as gaps in the provision of information.

As part of this role, the Department regulates access to and provision of places (attracting government subsidies) for aged care services. The number of aged care places is determined by the aged care planning ratio, which is being progressively increased from 113 to 125 places per 1,000 people aged 70 years and over, by 2021-22. In home care, the target ratio is increasing from 27 to 45 places per 1,000 people aged 70 years and over, by 2021-22.

While more home care packages will be available to consumers each year in line with the aged care planning ratio, the total number of government subsidised home care packages will still be capped.

Productivity Commission inquiry and reform pathway

A number of reviews of aged care, including the 2011 Productivity Commission inquiry, have found that the aged care system suffers key weaknesses, including a high regulatory burden, limited consumer choice, variable quality, and inconsistent and/or inequitable subsidies and user co-contributions.

In relation to consumer choice and flexibility, the Commission noted that:

> "Older Australians…did not want to be passive recipients of services, dependent on funded providers. Rather, they wanted to be independent and be able to choose where they live, which provider they would use, the way in which services are delivered, and whether to purchase additional services and/or a higher standard of accommodation. There is strong empirical evidence that consumer choice improves wellbeing, including higher life satisfaction, greater life expectancy, independence and better continuity of care. In addition, competition amongst providers in a system where consumers can exercise choice leads to a more dynamic system, with enhanced incentives for greater efficiency, innovation and quality. A more flexible system would also enable providers to increase the range and scope of their services, freeing them from the current highly regulated, risk-averse regime."[9]

In response to the Commission's inquiry, in 2012, the previous Government introduced a number of changes to the aged care system to address some of these issues. While delivering some immediate improvements, these changes do not deliver the less regulated, more consumer-driven, market-based system envisaged by the Commission.

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[9] Australian Government Productivity Commission, *Caring for Older Australians: Productivity Commission Inquiry Report Vol. 1, No. 53, 2011, p. xxviii.*

National Aged Care Alliance's views

The National Aged Care Alliance (NACA) is a representative body of peak national organisations in aged care, including consumer groups, providers, unions and health professionals, working together to determine a more positive future for aged care in Australia.[10]

In 2012, the Alliance noted that the lack of choice in the aged care system was impeding efficient service delivery. In its first blueprint for aged care reform, the Alliance recommended:

> "Removing the current regulatory restrictions on the quantity and type of services providers can offer. This would enable providers to be more responsive to older people's needs and preferences. This reform would be introduced gradually with an initial focus on freeing up the provision of community care…"[11]

In 2015, the Alliance released its second blueprint for aged care reform, stressing the importance of consumer choice and control.[12]

Opportunities for de-regulation

The Australian Government is strongly committed to reducing the regulatory burden for business, community organisations and individuals.

The Aged Care Sector Committee developed a Red Tape Reduction Action Plan which has been endorsed by Government and can be viewed on the Department of Social Services website.[13] The Plan identifies 35 actions for reducing red tape and regulatory burden. To date, several of the action items have been completed. The Department will work to continue to progress the remaining items, supplemented by more significant structural reforms such as those outlined in this RIS.

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[10] National Aged Care Alliance website. http://www.naca.asn.au

[11] National Aged Care Alliance, Blueprint for Aged Care Reform, February 2012, p. 4.

[12] National Aged Care Alliance, Enhancing the quality of life of older people through better support and care, NACA Blueprint Series, June 2015.

[13] https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/aged-care-reform/aged-care-sector-committee/red-tape-reduction-action-plan

3. What policy options have been considered?

Introduction

As explained in the policy context (page 3), the Government announced significant reforms to home care in the 2015-16 Budget. There will be a phased approach to implementation, with Stage 1 to commence in February 2017 and Stage 2 from July 2018.

This RIS focuses on the changes proposed under Stage 1 of the Budget measure. The regulatory impact is discussed below. A separate RIS will be prepared for Stage 2 following consultation with stakeholders.

When preparing a RIS, Australian Government agencies must consider a range of viable policy options. Whilst a RIS would normally have at least three options, this was not feasible or practical in this case. Two options are presented in this RIS:

- Option A – Increasing choice and flexibility for consumers (as announced in the 2015-16 Budget); or
- Option B – Maintaining the status quo.

Option A is the implementation approach presented in the legislative framework to be considered by Parliament in the Aged Care Legislation Amendment (Increasing Consumer Choice) Bill 2016. It should be noted that, in developing this option, a range of potential approaches and models for implementation have been discussed with stakeholders. Some of these potential approaches were canvassed in the public discussion paper (see Question 5), such as the approach to the treatment of unspent funds. This RIS focuses on the proposed implementation arrangements rather than approaches and models that have been considered during the development and consultation phase, but not progressed further.

Option A: Increasing choice and flexibility for consumers

Under Option A, funding for a home care package will follow the consumer. Eligible consumers will be able to receive subsidised home care from any approved provider. They will no longer be restricted to providers that hold an allocation of places. This will provide greater choice for the consumer in selecting an approved provider, as well as flexibility to change to another provider if the consumer wishes to do so.

To give effect to greater choice of provider and portability of funding, the following changes are proposed:

- Providers will no longer be required to apply for home care places through the ACAR;
- Existing arrangements that govern the management of allocated home care places (e.g. transfers, variation to conditions of allocation, relinquishments) will be removed;
- The process for becoming an approved provider will be simplified; and
- Unspent funds will generally move with the consumer if they move to another home care provider, or be returned to the consumer and/or the Commonwealth when the consumer leaves home care.

For the first time, there will also be a consistent national approach to prioritising access to home care through the My Aged Care gateway/entry point to the aged care system.

Rationale for this option
This option gives effect to the Government's policy objectives for Stage 1 of the home care reforms, as announced in the 2015-16 Budget. It will build on previous changes to the Home Care Packages Programme, including the introduction of CDC into all home care packages, and will further expand the functions of My Aged Care leveraging on the Government's investment in existing operations and IT systems.

This option is consistent with the principles for Australia's future aged care system, as articulated by the sector in the Aged Care Sector Statement of Principles (approved by the Government in November 2014), the Aged Care Roadmap and with the long term policy directions proposed by the Productivity Commission and the National Aged Care Alliance.

This option is also consistent with the Government's commitment to reducing regulation and moving to a more market-based aged care system. It also more closely aligns the home care arrangements in aged care with other government support programmes, including the National Disability Insurance Scheme (NDIS).

Option B: Maintaining the status quo

Whilst not the Government's preferred approach, an option would be to maintain the current policy settings, including the allocation of new home care places through the ACAR, existing arrangements for the management of allocated places, and the current approved provider arrangements. Instead, future policy changes could be considered in light of the legislated review of the current aged care reforms, which will take place in 2016-17.[14]

Rationale for this option
This option would provide an opportunity to bed down current changes to the aged care system, including the introduction of the CHSP, expanded functions for My Aged Care and the extension of CDC to all home care packages, before making further structural changes. However, as noted on page 7, further reform would provide greater choice, flexibility and control to consumers.

[14] *Aged Care (Living Longer Living Better) Act 2013* (Cth) s 4(4).

4. What is the likely net benefit of each option?

Option A: Increasing choice and flexibility for consumers

Implementation of this policy option will address the weaknesses of the home care system outlined in Question 1 – *What is the policy problem?* This option will increase choice, flexibility and portability for the consumer, reduce the regulatory burden for providers (in applying for home care places through the ACAR and in becoming an approved provider), and provide a nationally consistent approach for prioritising access to home care. As explained in Question 5 below, the proposed approach to implementation has been developed in consultation with stakeholders.

Impact on individuals

This policy (Option A) will provide more flexibility for consumers to choose their service provider and to change their provider if they wish, including where the consumer moves to a different location. There will be no additional regulation for individuals. Consumers and carers will be supported by My Aged Care in accessing a home care package or changing providers, including through the assessment process and referrals to home care providers. Consumers or their representatives will also be able to manage the process of choosing a home care provider themselves, with minimal support from My Aged Care, if they wish to do so.

Overall, the premise that allowing funding to follow the consumer and opening up the home care market will afford greater choice, flexibility and continuity of care for consumers was supported through feedback to the public discussion paper.

Submissions from most stakeholders in response to the discussion paper were positive that the reforms will enable consumers to choose a provider that best meets their needs (including, for example, providers that offer services sensitive to language and cultural needs), noting that appropriate supports will be needed for some consumers to enable informed decision-making.

Consumer groups are strongly supportive of the reforms but would like to see the current changes go further, moving ultimately to an entitlement model where supply is not capped and the consumer is fully able to control how and where funding is spent. As noted on page 12, while more home care packages will be available to consumers each year, in line with growth in the aged care planning ratio, the total number of government subsidised home care packages will still be capped under this measure.

Impact on providers

Under the proposed changes, providers will no longer need to apply for new home care places through the ACAR. The current ACAR application process is resource intensive for providers. In 2014, it was estimated that providers took 50 person hours to complete an ACAR application for home care places.[15] In recent ACARs, there has been strong competition for new home care places, with a large number of unsuccessful applicants in each round[16]. A total of 527 providers applied for home care places in 2015. This has added to the criticism that the ACAR creates an unnecessary regulatory burden on business and

[15] Based on an internal review of the 2014 ACAR application process for home care.

[16] In the 2015 ACAR, providers applied for 126,826 home care places in respect of the 6,045 places available. In the 2014 ACAR, providers applied for 108,281 home care places in respect of the 6,653 places available. In the 2012-13 ACAR, providers applied for 106,503 home care places in respect of the 5,835 places available.

community organisations, at times for no benefit to some providers. The removal of the ACAR for home care places has been broadly supported by the sector.

Removing the concept of allocated home care places will enable the sector to transition to a more competitive, market-driven environment and allow consumer focused and innovative providers to expand their businesses to meet local demand and consumer expectations, including the needs of consumers with dementia and other special needs. Providers will no longer be limited by the number of places they have and can expand their businesses as they see fit. Service providers that do not currently have an allocation of home care places, and in some cases may be providing sub-contracted services to an approved provider, have welcomed the opportunity to provide home care services directly to consumers.

Whilst most providers were supportive of the policy objectives, some providers have expressed concerns about the loss of business certainty and the potential impact on financial viability, with the transition to a more competitive market. There were some views that it may also affect providers' ability to manage and plan their workforce, which may encourage casualisation of the workforce. Some providers have said that a casual or contract-based workforce could make it more difficult for them to monitor consistency of care quality, attract and retain staff.

The peak bodies representing providers have expressed concerns that some small providers, particularly those in rural, regional and remote areas and/or catering to special needs groups, may find it challenging to remain viable as they have less capacity to market their services and remain competitive relative to larger providers. Contributing factors include the higher costs and resource intensity associated with delivering care to consumers in rural, regional, and remote areas and special needs groups, lack of economies of scale, and limited access to marketing resources.

The Aged Care Financing Authority (ACFA) has recently sought views from aged care providers operating in rural and remote locations and other stakeholders in order to inform ACFA's study and report to the Minister on '*Issues affecting the financial performance of rural and remote aged care providers*'.[17]

Some stakeholders have suggested that proposed changes in Stage 1 of the home care reforms may result in market consolidation, although it is difficult to estimate or quantify the possible impact on the sector. It should be noted that the total number of home care packages will continue to grow nationally each year. While some stakeholders have suggested that smaller providers are potentially more at risk in a competitive operating environment, others believe that smaller organisations will be able to draw on their local knowledge and relationships with consumers to position themselves as providers of choice within their communities.

The home care market, as at 30 June 2015, is predominantly run by not-for-profit organisations (68%) which collectively hold 82% of the allocated home care places. The remaining home care providers comprise state and local government-based operators (20%) who hold 8% of the allocated home care places, and for-profit operators (12%) who hold 10% of the allocated home care places.

[17] Aged Care Financing Authority, Call for submissions, Issues affecting the financial performance of rural and remote providers, across residential, home and flexible care, August 2015.

Most home care providers (70%) are operating with an allocation of 100 or fewer home care places. Almost a third of home care providers have an allocation of between 10 and 30 places. At the other end of the market, there is a small number of home care providers (3%) with more than 1,000 home care places – most of these are not-for-profit providers. Collectively, these larger providers hold around 30% of the total allocation of home care places.

The financial impact of the changes on providers will be closely monitored by ACFA. Monitoring will particularly examine the impact on service delivery in regional, rural and remote areas.

Once home care places are no longer allocated to approved providers, the existing regulatory arrangements that govern the ongoing management of allocated places (e.g. transfers, variation to conditions of allocation, relinquishments) will also be removed from the legislation. This will further reduce red tape for home care providers.

Currently, some home care places are subject to specific conditions of allocation, for example, to give priority of access to special needs groups or to target services to a particular location. These conditions are made at the time of allocation and are based on information in the applicant's ACAR application. While some providers and consumer groups were concerned that these conditions would no longer apply, overall, feedback from the sector is that the current system of conditions of allocation is not effective – it is not transparent and cannot be monitored effectively.

The proposed changes will provide greater choice for consumers when selecting a provider. Once a consumer has been notified by My Aged Care that funding for a package is available, the consumer will be able to seek home care services from any approved provider with capacity to meet the consumer's needs. Providers will be better able to market their services, including to people from special needs groups and for specialised care (e.g. for people with dementia). The delivery of care will be tailored to the consumer's individual needs, including factors relevant to the care of a person with special needs.

While most stakeholders were supportive of the proposed arrangements, they emphasised that the changes will need to be closely monitored to ensure that access to care for people from special needs groups is not adversely affected.

Providers will still need to be approved by the Department under the Act in order to provide subsidised home care, but the process for becoming an approved provider will be simplified. This will include updating the suitability criteria for approving providers, streamlining the process for becoming an approved provider, and providing a simple model for existing residential and flexible care providers to also provide home care. Simplifying the process for residential and flexible care providers to become home care providers recognises that these providers have already been tested against the standards required to become an approved provider of aged care. Once an organisation has been approved as a provider under the Act, approved provider status will no longer lapse after two years if the provider does not hold an allocation of places – this change will apply across all care types including home care, residential care and flexible care.

Making these changes will remove some of the barriers to entry for new providers, whilst still ensuring that standards of care remain high. Increasing the number of approved providers able to provide home care will support greater choice for consumers, but importantly, new providers will still be required to demonstrate their suitability to become an approved provider. All approved providers of home care will need to meet the Home Care Standards and will be subject to independent quality reviews.

Overall, there was strong support for a streamlined approved provider application process during the consultations with stakeholders, as current practices are considered to be onerous and resource intensive for providers.

Treatment of unspent funds

To give effect to choice and flexibility in home care, the Government believes that it is important that funds move with the consumer if they wish to change to another home care provider. During consultations, most stakeholders including consumers and providers agreed that unspent funds should move with the consumer if they change to another home care provider. This is consistent with the concept that the home care package 'belongs to the consumer' and will minimise financial disincentives to changing providers. An administrative charge may be deducted from the amount of the unspent funds by the provider.

There was a mix of views as to what should happen to unspent funds where a consumer permanently leaves subsidised home care, e.g. enters residential care, no longer requires home care, or dies. Various policy scenarios were tested in the discussion paper and with the NACA Home Care Reforms Advisory Group (see Question 5).

The proposed approach is that any unspent funds must be returned to the consumer (or their estate) and the Commonwealth, based on the respective contributions made by each party. The provider will be responsible for calculating the proportion of the consumer and Commonwealth contributions, using the total fees paid by the consumer and the total subsidy and supplements paid through the package. The provider will be able to retain some of the unspent funds, as an administrative charge.

To support transparency and choice for the consumer, before a consumer commences in a home care package, the provider must disclose all relevant charges that may be deducted from the total of any future unspent funds. All applicable charges must be clearly set out in the Home Care Agreement offered to the consumer and be published on My Aged Care. The provider will also be required to disclose to the consumer other matters which could restrict portability, such as minimum contractual periods and required notice to leave a package.

Consistent with the Government's approach to reducing regulation and encouraging businesses to compete in a market-based system, it is not proposed to initially regulate (prohibit or restrict) minimum contract periods, minimum notice requirements, or administrative charges on entry, exit or transfer.

However, the Department will closely monitor practice in this area, including feedback and complaints from consumers, both in lead up to February 2017 and after implementation. The Department will also work closely with peak groups representing consumers and carers and the NACA Home Care Reforms Advisory Group to monitor any changes in behaviour. If there is evidence that restrictive conditions are being included in Home Care Agreements, it would be open to the Government to more actively regulate in this area in the future.

While these changes will result in some additional regulation for providers (see regulatory costings below), there will be no regulatory impact on consumers.

Option B: Maintaining the status quo

As noted on page 15, this option would provide an opportunity to bed down current changes to the aged care system, including the introduction of the CHSP, expanded functions for My Aged Care and the extension of CDC to all Home Care Packages, before making further structural changes.

However, this option would provide little scope for the Government to address the policy problems outlined in Question 2, namely limited choice and flexibility for consumers in the current care at home arrangements including lack of portability, and inconsistency in prioritising access to home care. It would also not deliver a significant reduction in regulation and red tape for providers.

Regulatory costings

The regulatory cost estimates, as outlined in Table 1, have been agreed with the Office of Best Practice Regulation.

Option A: Increasing choice and flexibility for consumers

The overall regulatory saving is estimated to be $4.51 million per year. This figure is based on the following elements:

- providers no longer being required to apply for home care places through the ACAR (saving of approximately $4.38 million per annum);
- removal of existing arrangements that govern the management of allocated home care places, e.g. transfer of places, variation to conditions of allocation (saving of approximately $0.04 million per annum); and
- streamlining approved provider arrangements, including simplifying the application form to become an approved provider across all provider types (home care, residential care, and flexible care) to reflect updated suitability criteria for approving providers, providing a simple model for existing residential and flexible care providers to also provide home care, and removing the lapsing rule for approved provider status across all provider types (saving of approximately $2.63 million per annum).

These savings offset the estimated regulatory impact of new responsibilities for home care providers regarding the treatment of unspent funds (approximately $2.55 million per annum). Specifically, these responsibilities include reconciling the amount of unspent funds and transferring or returning amounts to another provider, the consumer or the Commonwealth. As explained earlier, providers will be allowed to cover some of these costs through an administrative charge when a consumer changes to another provider or no longer requires home care, provided the amount is disclosed to the consumer upfront.

Table 1. Regulatory burden and cost offset estimate table

Average annual regulatory costs (from business as usual)				
Change in costs ($ million)	Business	Community organisations	Individuals	Total change in costs
Total, by sector	($1.14)	($3.37)	$0	($4.51)
Cost offset ($ million)	Business	Community organisations	Individuals	Total, by source
Agency				
Are all new costs offset? **□ Yes, costs are offset □ No, costs are not offset ☒Deregulatory—no offsets required**				
Total (Change in costs – Cost offset) ($ million) = ($4.51)				

Option B: Maintaining the status quo

As this option is to maintain the status quo, there would be no additional regulatory impact on individual, community organisations or businesses.

Future reductions in regulation and red tape for business, community organisations and individuals could be progressed through implementation of the Red Tape Reduction Action Plan, which has been developed in conjunction with the Aged Care Sector Committee. Any regulatory savings would be considered separately from this RIS process.

5. Who will be consulted and how will you consult with them?

The Government and the Department are strongly committed to a co-design and partnership approach with the aged care sector to inform programme design and implementation. The Department has consulted widely since the 2015-16 Budget and has worked closely with stakeholders in developing the proposed implementation arrangements for Stage 1.

Consultation to date

Advice from stakeholders on specific issues
The Department sought early views from key stakeholders in July and August 2015 to shape the policy content of the public discussion paper.

The Department has also sought advice from stakeholders on specific policy and implementation issues. For example, the Department convened workshops in October and December 2015 with representatives from Aged Care Assessment Teams and providers to discuss the implications of the proposed changes to assessment and prioritisation.

National Aged Care Alliance advisory group
A new Home Care Reforms Advisory Group has been established under NACA to provide ongoing advice to the Minister for Aged Care and the Department on a range of design, implementation and transition matters.

Membership of the advisory group comprises a mix of consumer and provider representatives, allied health profession representatives, union representatives and a state government representative. The advisory group has met three times to date through a teleconference on 27 October, and face-to-face workshops and meetings on 17 November and 17-18 December 2015. These meetings and workshops have focused on a range of policy and implementation issues, including the implications for business design/IT changes, and the approach to the treatment of unspent funds.

Further meetings will be held throughout 2016, through which the advisory group will continue to provide advice on implementation, communication and monitoring issues for Stage 1. The advisory group will also provide advice on options for programme design, funding models and implementation arrangements for Stage 2.

Public discussion paper
The Department released a policy discussion paper on 25 September 2015. The *Increasing Choice in Home Care* – Stage 1 – Discussion Paper was available for public consultation on engage.dss.gov.au until late October 2015.

Feedback was sought from the aged care sector and other interested parties on the policy design including the national approach/system, prioritisation, interim packages, unspent funds, changes to approved provider arrangements, impacts on consumers and providers and future information and support needs. The Department received 101 submissions from a range of stakeholders. Around half of the submissions were received from providers, with a further quarter submitted by peak bodies representing consumers and providers (see Table 2). Submissions from organisations based in New South Wales and Victoria represented around half of the total number of submissions (see Table 3).

The discussion paper was promoted through a range of communication channels, including through the Department's website, webinars, newsletters (Information for Aged Care Providers) and messages to the sector (via MailChimp).

Table 2. Number of submissions by stakeholder type

Stakeholder type	Number of submissions
Service provider	48
Peak body - Consumer	16
Peak body - Provider	8
Other	6
Consumer advocacy organisation	5
State Government	5
Seniors membership organisation	3
Professional organisation	3
Consumer/carer	2
Disability support organisation	2
Aged care assessment service	2
Federal Government	1
Total number of submissions	101

Table 3. Number of submissions by stakeholder location

State/territory	Number of submissions
NSW	29
VIC	22
National	17
QLD	12
SA	10
ACT	5
WA	5
TAS	1
NT	0
Total number of submissions	101

Webinar
To support the discussion paper, the Department conducted a webinar on 19 October 2015 to explain the proposed changes and provide an opportunity for stakeholders to ask questions. Around 700 sites participated. A video of the webinar and transcript are available on the Department of Social Services website.[18]

Sector Conferences and Presentations
The Department has actively engaged with stakeholders since the Budget announcement in May 2015 through participation in a range of meetings, forums and conferences with the sector. These include meetings of the Aged Care Sector Committee, NACA, various state forums or workshops conducted by Leading Age Services Australia (LASA), Aged and Community Services Australia (ACSA) and the COTA Criterion Conference.

Future consultation
The Department will continue to consult with stakeholders throughout 2016, with an increasing focus on communication and stakeholder engagement activities to support consumers, providers and other stakeholders (further detail is at Question 7).

Stakeholders will have an opportunity to comment on a concept of operations relating to proposed new functionality and changes to the My Aged Care system. This will allow validation and refinement of concepts before changes are made to the system. The Department will brief the sector on the My Aged Care changes through sector briefings, written materials and webinars in 2016.

[18] http://livestream.ssc.gov.au/dss/19october2015/

6. What is the best option from those considered?

Option A is the preferred option as it directly addresses the weaknesses in the care at home system (identified in Question 1 - *What is the policy problem?*), namely:

- limited choice and flexibility for consumers in the current care at home arrangements, including a lack of portability;
- a high regulatory burden for service providers in applying for new home care places through the ACAR and in being becoming an approved provider under the *Aged Care Act 1997*; and
- lack of a consistent national approach to prioritising access to home care.

This option is consistent with the reform directions and principles set out by the Productivity Commission, NACA, the Aged Care Sector Statement of Principles and the Aged Care Roadmap. Overall, most stakeholders are supportive of the policy objectives associated with Option A, although some providers are concerned about the impact of greater competition on their business.

The changes associated with Option A will also provide the foundation for further reform of the care at home system in Stage 2, as announced by the Government in the 2015-16 Budget.

Option B would provide an opportunity to bed down previous and current reforms, including CDC in home care packages, the CHSP and My Aged Care. However, it would provide little scope for the Government to address the policy problems identified at Question 1, and would further delay reforms that stakeholders have called for over a number of years. It would not reduce the regulatory burden for providers.

For these reasons, and as summarised in the table below, Option A will provide the greatest net benefit to the community. The benefits of increased choice and flexibility for consumers, whilst not quantified, are greater under Option A. This option also provides a considerable net reduction in regulatory burden for providers.

Policy Objectives	Option A	Option B
Increase choice, portability and flexibility for consumers	Yes	No
Minimise regulatory burden on providers	Yes	Small reductions may be possible, within existing business as usual requirements.
Ensure a nationally consistent approach to prioritising access to care	Yes	No
Net regulatory cost	Saving of $4.51 m p.a.	No change

7. How will you implement and evaluate the chosen option?

Implementation

Overall implementation of Stage 1 of the reforms is the responsibility of the Department, although some aspects will require implementation by DHS. An Aged Care Reform Taskforce has been established within the Department to oversee and manage the implementation.

The implementation and evaluation of this measure (both stages) are also subject to a Department of Finance Gateway Review which provides independent assurance and advice to the Department of Health to improve delivery and implementation of the policy.

In order to implement Stage 1, legislative changes will be required to the *Aged Care Act 1997* and the *Aged Care (Transitional Provisions) Act 1997*. The Bill to introduce these changes is being introduced in early 2016. Early passage of the legislation will provide the sector with certainty about the legal requirements so that providers can make the necessary changes to management, business and operational arrangements.

Following the passage of the amendments to the primary legislation, changes will also be made to the sub-ordinate legislation, including a number of the Aged Care Principles, Aged Care (Transitional Provisions) Principles and aged care determinations. Details of these changes are expected to be available in the first few months of 2016.

Significant changes will be required to the IT systems and operational processes supporting My Aged Care. It is not expected that significant changes to the DHS system will be required, with current processes for providers to claim subsidy and client income testing expected to remain unchanged. Some minor changes to DHS processes will be necessary to recognise the assessment approval of a consumer at a specific package level (rather than a 'broadbanded' approval for high or low level packages) and to manage the return of the Commonwealth's component of unspent funds when a consumer no longer requires home care.

Once the policy and legislative framework is settled, there will be an increased focus on communication and sector engagement activities to explain the changes and to support consumers and providers in moving to the new arrangements. Feedback in response to the discussion paper identified a number of communication channels and formats that are preferred by consumers and providers, including face-to-face information and education sessions and a combination of web-based and print-based materials.

Stakeholders emphasised that the Government needs to communicate directly with consumers and their representatives, not just through providers. Feedback indicated a variety of consumer and carer information will be needed, including targeted and accessible information and support for special needs groups. The needs of people from culturally and linguistically diverse (CALD) backgrounds and consumers with vision impairment were particularly highlighted.

It was highlighted that general practitioners and other health professionals are a key information and referral source for prospective consumers and carers. Therefore, consumer friendly information needs to be widely available to carers, providers, the assessment workforce, general practitioners and other health professionals, in addition to My Aged Care.

My Aged Care will be a key first point of information, but not the only point, for consumers and carers.

The recent expansion of CDC to all home care packages has demonstrated that consumers and providers require a significant amount of support in transitioning to new arrangements. The management of ‘change or reform fatigue’ will be essential. The Department is developing a comprehensive stakeholder communication and engagement strategy based on the stakeholder feedback, and will work closely with the NACA Home Care Reforms Advisory Group on communication and transition matters. In addition, there will continue to be opportunities for further consultation as part of the co-design process, as outlined in Question 5.

Evaluation

The Department will closely monitor the impact of the home care reforms following the commencement of Stage 1 in February 2017, with regular reporting to stakeholders and the public. This will include working closely with peak groups, ACFA and the NACA Home Care Reforms Advisory Group to monitor the impact of the changes on consumers and providers (both for profit businesses and not for profit organisations).

The Department will particularly monitor the distribution of home care packages and waiting times to ensure that there is equitable access to care, including in rural and remote areas and for people with special needs.

Existing quality assurance mechanisms, such as the Aged Care Complaints Scheme and the Australian Aged Care Quality Agency, will help to monitor the impact of the changes from a complaints and compliance perspective.

The Department is also developing a Benefits Realisation Plan as part of the evaluation of the measure. The plan will build on the existing Aged Care Reform Benefits Framework and will assess the realisation of benefits for clients, aged care providers, consumers and the Commonwealth. The independent Department of Finance Gateway Review will help to oversee that the evaluation framework is appropriate.