

Appendix C: Why aged care is a failed market

This document is part of our main submission, summarised below:

1. Main submission: Inquiry into the Future of Australia's aged care sector workforce.

2. Appendix A: A Community Aged Care Hub

This document is derived from our website that describes how the proposed *Community Aged Care Hub* might be structured.

3. Appendix B: 21st century thinking and research

This document addresses the need for an effective customer. It discusses and supplies links to modern thinking about the provision of social services including personalisation, citizenship and community involvement. It examines 20th century failures before addressing the 21st century movement for open government, participatory democracy and a rebuilt civil society. Our proposal can be seen as lying within these movements and to meet their objectives.

4. Appendix C: Why aged care is a failed market

In this document we have simply tabulated our criticisms and assessment of our political system, our providers and other participants as they impact on aged care and address most of these issues in greater depth and support our argument with quotes and references to a large amount of material. We list the large numbers, but largely ignored market failures where vulnerable customers or employees have been ruthlessly exploited. We argue that aged care is a vulnerable market and that the volume of criticism and information is so great that, in the absence of any other reliable data, it must be accepted and acted on. The reasons why it is a failed market are quite clear. This is only a small representative sample of the material we have collected over the years.

5. Appendix D: Community integration

Our proposal is a wide ranging one which sees aged care integrated at a community level and not at a government level. Government will work through and with the community. This will vastly improve its utility to serve the community and its seniors. We have made submissions to other inquiries including those below. These illustrate the manner in which our community proposal will enable all of these services to be integrated and work together. It would also facilitate integration with the health care services and the NDIS locally. It may be possible to reduce the costs by sharing staff.

Please consider our submissions (already submitted) at these links as supporting evidence to your committee:

- **Review of Aged Care Advocacy Services:**
ACC feedback form questions and our responses: <http://bit.ly/25tqXxK>
ACC supplementary submission: <http://bit.ly/1PCdyaY>
- **Inquiry into elder abuse in NSW**
ACC submission: <http://bit.ly/1RMaEZO>

Contents

1. Introduction	3
2. Politics and aged care	5
A. Vulnerability	5
B. The role of a customer	6
C. Logical errors.....	6
D. Ignoring confronting evidence.....	7
E. The nature of markets	8
F. The erosion of civil society	12
G. Government in crisis	13
H. Government ability to control markets	19
I. Political gullibility and staffing.....	19
J. Uncontrolled markets ignore evidence and degrade humanitarian values	21
K. Collecting data in Australia	22
L. International data	27
M. Aged Care failure in Australia	32
N. Vulnerable markets – the wider context	36
O. Drawing obvious conclusions	43
P. Sacrificing our seniors.....	45
3. Providers of care	47
A. For-profit providers.....	47
B. Not-for-profit providers	56
4. Unions, professional and registration organisations	61
5. Staff and families	61
6. The proposed community aged care hub	64
7. Relevance to our proposal for aged care.....	67

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

1. Introduction

In our submission we made a number of allegations in point form which many will deny and reject. In this appendix we have marshalled the material, which supports our assertions and our arguments using references and quotes. There is a vast amount and this is only a representative sample. It is primarily to counter those who wish to reject our arguments.

Aged care is a failed market and it is only one of a growing number of failed markets. We have assembled a long list of links to material that:¹

- shows how widespread failed markets due to vulnerable customers or workers are
- shows the unhappiness of many of those who have experience of the aged care system
- illustrates what is happening or has happened.
- addresses some of the issues

Countries that have based their aged care systems on similar belief systems have similar failed markets and their elderly have suffered the same consequences². Adequate staffing and working conditions have been a core problem.

During the late 1990s, the aged care market in the USA entered a phase of rapid corporatisation and consolidation. There is extensive information showing how the major corporate chains involved in this behaved and the long term consequences for the system and for the residents in nursing homes³.

In the UK, a Panorama TV program showed graphic footage and gave multiple examples in an expose in 2014. A TV program in the USA in 2013 showed similar footage and analysed the failure of their market system.

There is more than enough information to show doubters that there are serious problems in aged care in countries that like Australia have applied free market principles to their aged system. This Appendix addresses the how and why and the evidence that Australia is well down the same path and making the same mistakes. It explains why this has happened so that we can see what we need to do about it.

Examples

The UK: In the UK the failures in care by big corporations have been overshadowed by the havoc caused by private equity. A 2014 TV program exposed what was happening but is no longer available. This article describes the Panorama program

- the charity *Compassion in Care*, in partnership with Private Eye magazine, found that of the chain's (ie UK INT FP Company) 30 care homes (*in Scotland*), there were serious failings at 10, and nine gave cause for concern.

She (Eileen Chubb from "Compassion in Care") cites the 2011 collapse of care home provider Southern Cross as an example of this: "I went into 60 of their homes, and could see that the staff had been cut to the bones - - .

¹ Further reading Aged Care Crisis web site <http://www.agedcarecrisis.com/solving-aged-care/part-4/further-reading>

² International aged care Aged Care Crisis web site (a web page examining the UK and the USA) <http://www.agedcarecrisis.com/solving-aged-care/part-4/international-aged-care>

³ Aged Care and Nursing Homes the Corporate Medicine web site. http://www.bmartin.cc/dissent/documents/health/access_aged.html

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

According to last year's Adult Social Care Survey, one in three adults who are in residential care or receiving help at home fear abuse or physical harm — that's about half a million people.

Source: *This Is The Shocking Face Of Abuse In Britain's Elderly Care System* - BuzzFeed 30 Apr 2014 -- <http://www.buzzfeed.com/alanwhite/this-is-the-shocking-face-of-abuse-in-britains-elderly-care-jtlGYJODJ>

Other revealing material includes:

- **Thousands of complaints made about elderly care in England** BBC News, 25 Feb 2015 <http://www.bbc.com/news/uk-31557790>
- **Growing Old: Care in Crisis?** - ITV News, 7 Oct 2015 <http://www.itv.com/news/2015-10-07/growing-old-care-in-crisis/>

The USA: In depth analyses of the aged care system exposing its parlous state have been published regularly over the years. Those in 1998, 2002 and 2014-15 are representative. The corporate lobby is so strong that attempts at reform are always frustrated. A 2013 analysis of the US system is available on Youtube

- **Money or mercy?** (multiple articles) - The Tampa Tribune, 15 Nov 1998
- **Negligence in Nursing Homes** An in depth investigative series of the St. Louis Post-Dispatch 2002 (link to 17 articles) <http://www.ccfj.net/NHSTLindex.html>
- **Investigation of Nursing Homes** Sacramento Bee 2014-15 (link to 31 articles based on an in depth investigation) <http://www.sacbee.com/news/investigations/nursing-homes/>
- **Fault Lines - Elderly Incorporated** (YouTube 20 Sep 2013) https://www.youtube.com/watch?v=L8cY_ZxW3aA&feature=share

Patterns of thinking developed in this market as it consolidated in the 1990s where decisions were based entirely on commercial considerations. This is well illustrated by a company that saw it as perfectly legitimate to discharge residents who paid poorly, or whose good Medicare funding had expired and was replaced by less profitable Medicaid funding. Medicare funding expired after 4 weeks and after this a pretext was found to discharge them. It could replace them with those who paid well including more Medicare residents. The poorly funded were simply sent home and dumped on their families

The way in which government regulators readily adopted corporate patterns of thinking is illustrated. State regulators accepted that it was legitimate to give commercial considerations priority over the needs of the frail elderly for care – an example of mental “compartmentalisation. It was a public outcry that stopped it.

Lxxxx Mxxxx's marching orders were simple. As a social worker at a nursing home owned by XXXXX Inc., she was to ensure that as many beds as possible were filled with residents covered by generous private insurance or by Medicare.

Patients whose high-paying benefits expired, and who thus ended up on lower-paying Medicaid, were to be moved out as soon as possible.

Mr. Bxxx, as chief operating officer, bore down on this in a memo to regional officials in the summer of 1997. "We determined months ago that we did not want to admit low-paying Medicaid only patients," he wrote. "Please let your administrators know that it's time to get on board or leave."

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: *Bed News: The Business Potential Of Nursing Homes Is Elusive, Vencor Finds: Bid for High-Paying Patients Brings Firm Headaches, And It Has to Regroup: Medicaid Is Welcome Now - The Wall Street Journal, 24 Dec 1998*

2. Politics and aged care

Politicians of both parties have been locked into the simplistic economic thinking of the late 20th century. A simplistic ideology developed. It claimed that markets were self correcting unless interfered with by regulators and that free and unregulated markets could be successfully used to restructure all of society.

In the process believers went ahead in the face of history, of economic theory, of logic and of evidence. The mechanistic nature of markets was ignored and they were endowed with intrinsic values and capacities for good that they did not possess.

That policy is now unravelling in the face of multiple failures. It has been unravelling in aged care in Australia for 18 years and that has been the largest elephant in the room at every inquiry. This and other elephants have been present in the room at every inquiry. We need to address them specifically and bring them into the debate. For example the fact that there is no evidence that competition improves care in aged care is conveniently ignored. Logic indicates that in vulnerable sectors the increased pressures introduced will be harmful. Evidence suggests that in aged it is.

A. Vulnerability

The vulnerability of frail citizens and those who do not have knowledge has been recognised for over 2,000 years. The threat which uncontrolled self-interest poses for them was addressed by ethical (eg. Hippocratic oath) and social (eg. Probity requirements) structures that protected the vulnerable. In imposing free market policies driven by strong self interest these were emasculated or abolished. The consequences are now readily apparent and some in Australia have spoken out about it.

Examples

... Some advocates warn that a free-market approach is unsuitable for aged care, because unlike normal markets, consumers of aged care are especially vulnerable. "The push around consumer choice or a greater role for the consumer in the marketplace in some ways is a bit of a nonsense," says XXXX, of National Seniors Australia.

... (Consumers are) - - at a great disadvantage when dealing with sophisticated companies that are adept at navigating the system. --- (as are) families confronted with big decisions at a time of great stress

"The consumer's power in this market will be very, very limited,"

Source: *How Our Twilight Years Are Ripe For The Picking (Comment by XXX, CEO of National Seniors) - The Global Mail, 22 Feb 2012* <http://bit.ly/1UrgKOF>

Appropriate safeguards for people from special needs groups and access to comparative measures of quality must be in place as community aged care is opened up to market forces, the chief executive of Alzheimer's Australia has said.

Source: *Call to protect vulnerable in shift to aged care market Australian Ageing Agenda 17 Nov 2015* <http://www.australianageingagenda.com.au/2015/11/17/call-to-protect-vulnerable-in-shift-to-aged-care-market/>

This confirms my view that the assumptions underpinning the positioning of older people as 'consumers' in the aged care reforms is problematic. For people to act as 'consumers' they need

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

power, information and knowledge. Many older people and their allies enter the aged care system at a point of crisis with little information and the system often does not support them to make informed choices.

Policy reforms should be thinking about older people as 'citizens' and how to engage older people in the reform process. This could then focus on the rights of older people to build connections and relationships and the social connections that will support people to age well in their community.

Source: Cxxxx Hxxxx (advocate for Consumer Directed Care) in comments below Government communication on aged care reforms needs improvement: PC Australian Ageing Agenda December 2, 2015 at 6:58 am <http://bit.ly/1Mxrg4n>

B. The role of a customer

The importance of a knowledgeable customer in a position to choose and to control the service provided has been a cornerstone of economic theory for in excess of 200 years, - since people like Adam Smith started studying the market in the 18th century. Customers who lacked knowledge and power would be exploited. In fact, anyone who was vulnerable was exploited. The rise of the unions was a response to the exploitation of vulnerable workers.

In the 1980s and 1990s established theory was simply ignored and unregulated free markets were introduced across society including those areas where customers were vulnerable or lacked knowledge. The consequences were predictable, were predicted and were ignored.

- [What Market Values Are Doing to Medicine](http://www.theatlantic.com/past/politics/healthca/reلمان.htm) - The Atlantic Monthly, Mar 1992 Warning about free markets in health care in the USA <http://www.theatlantic.com/past/politics/healthca/reلمان.htm>
- Marketplace Medicine: The rise of the for-profit hospital chains Dave Lindorff, 1992 Book Review, New England Journal of Medicine <http://www.nejm.org/doi/full/10.1056/NEJM199209103271124>
- [Remission Impossible](http://www.bmartin.cc/dissent/documents/health/williams.html) - Book by Ron Williams 1992 – quotes from book warning Australia at link <http://www.bmartin.cc/dissent/documents/health/williams.html>

C. Logical errors

In economic ideologists arguments the most basic logical category errors were committed. In the 1980s and 1990s it was argued that because markets worked in some sectors of industry there were no reasons why they should not work in all sections of industry. The "necessary conditions" for a market to work were ignored. An effective customer and a workforce able to protect itself from exploitation are necessary conditions for a market to work for society. This was ignored.

A similar logical error is to apply the same pattern of thought to service industries as to the trade in commodities where the consequences of market failure are much less. This applies particularly to providing humanitarian services. There have been multiple failures. Greater caution is required.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Example

The founders of the large US hospital chains unashamedly made these illogical arguments when they were criticised. They were uncritically accepted by those who needed to believe. Here is an example from the largest hospital chain of them all in the USA.

Rxxxxxx Rxxxxxx, co-founder of Cxxxxx/Hxx: "Health care is a business like anything else." and "The day has come when somebody has to do in the hospital business what Macdonald's has done in the fast-food business and what Wal-Mart has done in the retailing business,"

Rxxxxxx Sxxxxx, cofounder, chairman, CEO and President of Cxxxxx/Hxx: "Do we have an obligation to provide health care for everybody? Where do we draw the line? Is any fast food restaurant obliged to feed everyone who shows up?"

Source: Carl Ginsburg in *The patient as a profit centre: Hospital Inc. Comes to Town*, *The Nation*, 18 Nov 1996

D. Ignoring confronting evidence

By the late 1990s there was already extensive evidence of market failure in health care and in aged care in the USA. Vulnerable patients (particularly children) and frail seniors, had already been ruthlessly exploited by multiple for-profit hospital chains providing psychiatric, substance abuse and rehabilitation services and in many instances they were harmed.

This was an alarming illustration of the extent to which vast numbers of people employed in the sector were trapped by an ideology. They could see only what they believed and were blind to what they were doing and the consequences for others. It was also an example of infectivity as groups poached each others successful staff and competed to find ways of inducing unsuspecting people who did not need hospitalisation to admit themselves to hospital.

It also illustrated how Australia and its politicians trapped by the same ideology were prepared to turn a blind eye to the conduct of the principle company responsible for this. Health departments in two states recommended that hospital licenses be withdrawn but they were overruled. A third state finally refused them licenses to operate there. Federal politicians wavered when the company was convicted of criminal conduct in the USA, and only took decisive action when the minister for health was supplied with evidence that those running the Australian company had indulged in similar unethical conduct. Details are available on a web page '*The Impact Of Financial Pressures On Clinical Care: Lessons From Corporate Medicine*'⁴ on the Corporate Medicine web site.

There was already growing international evidence that commercial aged care providers understaffed when compared with not-for-profit providers and that failures in care were 3 or 4 times as common in their facilities. The growing volume of material as the new policies were being introduced was simply ignored. Much of that information can be accessed from the *US Aged Care & Nursing Homes*⁵ page on the Corporate Medicine web site.

This information was known to Australian politicians and more was soon available. Government's efforts to bring some of these health care companies into Australia was repeatedly frustrated by state probity regulations. Political conviction about the benefits of markets was so strong that in their drive to

⁴ The Impact Of Financial Pressures On Clinical Care Lessons From Corporate Medicine Corporate Medicine web site
<http://www.bmartin.cc/dissent/documents/health/corpmmed.html>

⁵ http://www.bmartin.cc/dissent/documents/health/access_aged.html

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

turn health and aged care into free markets the evidence was ignored. Incredibly when aged care was turned into a marketplace, probity requirements were abolished. Evidence continues to grow and we cannot credibly continue to ignore it.

Examples

At the same time as Dave Lindorff was writing his book predicting the future for health and aged care in the USA an Australian doing his PhD in the USA was studying the sector. He too tried to warn Australia not to follow this path and wrote a small book. It hardly made a ripple. Even the president of the AMA called it dystopian. Health care escaped the worst of this because doctors finally got the message a few years later and resisted - but aged care has not? Local corporations are behaving similarly.

As free market globalisation has grown local corporations have adopted the same thinking and practices as the multinationals. If Australian companies are to compete in the booming global aged care market place and contribute to Australia's wealth they have little choice.

"--- a huge and depressing departure from the system as they (readers) now know it."

"I see little but doom and gloom"

"-----, compassion will give way at an increasing ratio to profit. Care for the patient will give way to care for the corporation -----"

"---- if it (this book) corners overseas corporate forces into putting genuine human compassion behind the deceptively human face that they (megacorps) will present then -----"

"----, whether Australians like it or not, and they certainly will not, the new century will see the Australian Health industry controlled by overseas megacorps, part of an international oligopoly, whose primary concern will be measured in terms of the profits derived from its exploitation of the local population and its indigenous labour force"

There is not much chance that this recognition will come in time, in the next few years. (page 191)

The might of the megacorps is formidable; they are practised in the use of politics, and power and wealth, in getting their own way. The only way that this nation can impose its will on any of them is to do so as a nation; ----- (Page 197)

---- will not pay over their capital unless they can run their businesses along the free enterprise lines that they think fit. (page 195)

Extracts from "Remission Impossible" Ron Williams (1992) Corporate Medicine web site
<http://www.bmartin.cc/dissent/documents/health/williams.html>

E. The nature of markets

Theories developed in economic think tanks in the 1970s and 1980s saw free markets as more than a mechanism. They somehow acquired human attributes. They were endowed with the property of self-correction. Any attempt to regulate or control them was alleged to interfere with this. They ignored the wisdom of the past. The mechanistic nature of the market had been spelled out in the 18th century and Baron Thurlow's comment at the time is often quoted.

This new belief system was an illusion. Markets are impersonal mechanisms driven by self-interest and loyalty to corporations. They are driven by competition and efficiency in the creation of profits. Those who fail to compete in the generation of profits go under. They work for society because humans impose their will and make them do what they want and need. In vulnerable sectors the human cogs in

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

the system have little latitude in this regard when the necessity for serving society impacts on profitability and survival of the corporation. If they resist these pressures they will be ejected and if need be destroyed.

The market only works for society when the customers and civil society (our communities) have the power to control corporate behaviour and put companies who don't conform to their needs out of business. Their power breaks the bonds that bind employees and prevent them from acting in the public interest and in the interests of their customers. Effective customers allow employees to express their human values and act on them because these are now in the interest of the corporation.

Examples

Baron Thurlow 1731-1806 Lord Chancellor of Great Britain

"... Did you ever expect a corporation to have a conscience, when it has no soul to be damned, and no body to be kicked? ..."

Source: Edward, First Baron Thurlow 1731-1806 [Wikiquote](https://en.wikiquote.org/wiki/Edward_Thurlow,_1st_Baron_Thurlow)
https://en.wikiquote.org/wiki/Edward_Thurlow,_1st_Baron_Thurlow

Milton Friedman

Friedman actively participated in public debates over numerous policy issues; he was a major advisor to Republican U.S. President Ronald Reagan and Conservative British Prime Minister Margaret Thatcher. His political philosophy extolled the virtues of a free market economic system with minimal intervention. The market was thought to automatically correct any problems that arose provided it was free and not obstructed in any way. Any obstructions needed to be liberalised - ie removed.

Source: [Milton Friedman](#) - Wikipedia

Unsuited to healthcare

Pro-market theorist Milton Friedman has admonished corporate officials to shun any "social responsibility other than to make as much money for their shareholders as possible".

But corporate executives are employed by shareholders, not patients. Ultimately the laws of the market demand allegiance to profit over health, and the laws of the land require corporate officers to maximise shareholders returns.

Source: *Should such organisational imperatives govern health care?* Boyd J W et al, *Lancet* 8 July 95 pg 64

US Critic

The claim that the freest market produces the best economic and social outcome is the centerpiece of the conservative political resurgence. But without government intervention, the market can destroy a lot of things--including itself.

If, in the event, a particular market doesn't optimize, there is only one possible conclusion - it must be insufficiently market-like. This is a no-fail system for guaranteeing that theory trumps evidence. Should some human activity not, in fact, behave like an efficient market, it must logically be the result of some interference that should be removed. It does not occur that the theory mis-specifies human behavior.

Source: *The Limits of Markets* Robert Kuttner *The American Prospect* 19 Dec 2001
<http://prospect.org/article/limits-markets>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Canadian critic

Our essential difficulty is that we are seeking in a mechanism, which is necessary, qualities it simply does not possess. The market does not lead, balance or encourage democracy. However properly regulated it is the most effective way to conduct business. (page 138)

Trade, like any other economic mechanism, can be extremely helpful in the right circumstances. It cannot in and of itself solve societal problems. (page 146)

Source: *"The Unconscious Civilization" John Ralston Saul-The Massey lectures Penguin books 1997*

Australian critic

But to frame them (*Health and education*) as part of competition policy is an old economists' trick: take an area that's always been outside the marketplace and marketise it. Take the world as it is and make it more like the textbook assumes it to be.

Apply the economists' two magic answers – getting the incentives right and introducing competition and choice – and everything will fix itself without the economists ever needing to come to grips with the causes of the particular inefficiencies that are causing the problem.

Brilliant. But often disastrous. Think of the string of stuff-ups that have followed the econocrats' efforts to contract-out the provision of government services.

Source: *Let's not repeat our many competition stuff-ups post the Harper review The Sydney Morning Herald 30 Nov 2015* <http://bit.ly/1Xw0b6i>

Competition harms aged care

Rather than providing evidence to support the contention that as competition increases so too does quality, the research has in fact found the opposite; studies in 2004 and 2009 found evidence showing that as competition increased, quality overall decreased.

Source: *Unfolding changes warrant greater scrutiny by Richard Baldwin in Australian Ageing Agenda May-June 2015 pages 20-21* <https://search.informit.com.au/documentSummary;dn=403612920839601;res=IELFSC>

An impersonal mechanism: The free market is an impersonal mechanism and vulnerable individuals, even companies are trapped in it. It does what it has to regardless of the consequences. It requires a whole of community effort to address. Some US authorities who had studied the problems in the US health system put it well but Baron Thurlow had said it all 200 years earlier.

Some health policy experts like Uwe Reinhardt, an economics professor at Princeton University, see the situation as "brutal and inhumane." But, Professor Reinhardt said, doctors and hospitals are trapped in it.

Mark Pauly, a professor of health care systems at the Wharton School of the University of Pennsylvania, said there was no real villain. "I don't think it's exactly good versus evil," he said, "it's just business."

Source: *Quoted from a 2001 article in The New York Times*

Infectivity: Because free markets focus on profits any measure that is found to generate greater profit rapidly spreads through all arms of a company, and equally rapidly to competitors who must follow to remain competitive. Without effective customers failures in care are readily overlooked and the stronger the competitive pressures the more this occurs. When market failure occurs and citizens are harmed it is usually company and sector wide. There are numerous examples including in health and aged care.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

In California, elder-abuse attorneys have successfully argued that bad corporate practices - especially in the area of staffing - can spread like an infectious disease throughout a nursing-home chain.

Emails introduced at trial in Humboldt County illustrated pressure from corporate administrators to keep staffing costs down. After one staff person reported that four out of five facilities fell below state staffing minimums for a week, the president of Skilled (*Skilled Healthcare Group Inc.*) replied:

"Thanks again for sending this. Nice hour controls. Keep on that overtime."

Source: *Unmasked: How California's largest nursing home chains perform* The Sacramento Bee. 8 Nov 2014 (note the jury awarded \$677 million in damages in this class action)
<http://media.sacbee.com/static/sinclair/Nursing1c/index.html>

Serving management not society: Free market ideology has resulted in systems designed to meet the objectives and fulfil the goals of management and not that of the community whose experience of the system is not considered. It is the complexity of the system and the controlling arm of management that has destroyed the UK home care system and is threatening Australia's aged care reforms and its introduction of Consumer Directed Care (CDC)

In their narrow focus on implementation they omit to inform the recipients, instead concentrating their efforts on those who are responsible for implementing their solutions ie the providers. This is what happened with the *Living Longer Living Better* program. While it is more likely that they were simply not thinking that way, managers must have known that they were selling an illusion and were deceiving the public so had no heart for it. The consequence was that not only were the community not involved in the design but they had no interest or knowledge of its complexity.

Respondents have identified the current funding model is prescriptive, rigid and not based on clinical assessment, need, or best practice.

The ACFI creates financial incentives to treat residents, which encourage rorts and over-servicing. It also channels funding to passive treatments to manage pain rather than evidence-based, active treatments and causes resident dependence, rather than developing independence and function and the quality of residents' life.

Source: *ACFI Survey - Australian Physiotherapy Association, 2014*
http://www.physiotherapy.asn.au/DocumentsFolder/Advocacy_Background_Papers_ACFI_SURVEY_2014.pdf

(LASA) It is important that all stakeholders with a consumer facing operation are supported in providing pathways for understanding the system that unfortunately has become more complex than less through this reform process.

Source: *Comment on Government communication on aged care reforms needs improvement: PC Australian Ageing Agenda 2 December 2015* <http://bit.ly/1Mxrg4n>

Just 20 per cent of respondents were aware of the aged care reforms, and a similar proportion felt they were well informed about the costs associated with moving into residential aged care, the survey found. Fewer than 10 per cent of respondents felt they were well informed about government-funded services to assist them in their own homes.

- the consultations and provision of information around the reforms had focused more on aged care providers than consumers

Source: *Government communication on aged care reforms needs improvement: PC Australian Ageing Agenda 2 December 2015* <http://bit.ly/1Mxrg4n>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Failure to sell the illusion

More broadly, Ms O'Grady (*from ACFA*) argued that the communication with consumers around the changes to aged care, and the rationale behind them, had been poor.

"We missed out on great opportunity to herald the positive changes for the public at large, and to deliver communications that celebrated the improved value to the new consumers with clear content and delivered with the right tone," she said.

Source: *Providers told to expect greater scrutiny over rising bonds Australian Ageing Agenda 13 October 2015* <http://www.australianageingagenda.com.au/2015/10/13/providers-told-to-expect-greater-scrutiny-over-rising-bonds/>

F. The erosion of civil society

We live in an increasingly complex world where there are strong social pressures. At the same time the structure of society has changed resulting in an erosion of communities with a loss of involvement, control, knowledge, influence and power in civil society. This is described as "hollowing out". To deal with the increased complexity citizens needed to have more knowledge and more involvement but the very opposite happened.

It has become increasingly difficult to be an effective citizen or an effective customer and this is a growing problem in the marketplace. We need to address it. Ineffective customers is a particular problem in service industries because citizens are seriously harmed when they are exploited and not served. It is less of a problem with commodities because less harm results.

In capitalist democracies it has been civil society and the power it holds that has constrained the excesses of politics and the market. This balance has resulted in a successful social system. The current disenchantment with politics and politicians can be seen as frustration at civil society's exclusion and lack of power.

The argument here is that civil society has been hollowed out and marginalised by the managerial strategies used by government to impose markets and restructure our society along ideological frameworks. Society is no longer able to exert its important role in our democracy. As a consequence our democracy is under threat. Aged care is an example of this.

Examples

Early critic

.. Strong civic institutions help constitute the state, and also serve as counterweights against excesses of both state and market. Lately, the real menace to a sustainable society has been the market's invasion of the polity, not vice versa. Big money has crowded out authentic participation. Commercial values have encroached on civic values ..."

Source: *The Limits of Markets* Robert Kuttner, *The American Prospect*, 19 Dec 2001

In not-for-profits

Hynd identifies the greatest threat of Government contracting for Not For Profits, is the potential 'hollowing out' of one's mission and the risk of becoming 'funder determined' resulting in a loss of identity. The great loss in this process for the Australian community is the role Not For Profits have traditionally played in advocacy, identifying emerging community needs and addressing them with new initiatives that mobilise community resources.

These arguments aren't particularly new because providers of Employment Services have been identifying them out for some years. Wilma Gallet crystallised this well when she asks 'is it right to gain market share but retreat from your mission?'

Source: *BLOG: Strategies to Stop NFPs Being 'Hollowed Out' by Government* [Part 1](http://bit.ly/1qcJVZd) Probono Australia, 11 Jun 2015 <http://bit.ly/1qcJVZd> and [Part 2](http://bit.ly/1SsAKNr) <http://bit.ly/1SsAKNr>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

The culling of most of the community groups that were appointed to assist government – an open government initiative that was terminated – is an example.

In politics

The list of high-profile government agencies to be sold or merged is long. The lesser-known advisory bodies already abolished include groups working on sustainability, climate change, social inclusion, charities, homelessness, indigenous leadership, education, positive ageing, animal welfare, gambling, firearms, children and family, corporate wrongdoing and insurance reform.

This leafy maze of committees, councils and forums may have needed some creative topiary, but the sheer scale of the cuts has reduced it to a bare stump.

If the government message is "La, la, la ... Not listening", it will cost them, and us, dearly.

Opposing voices are stifled. The gossip and misinformation that's spread is bad, if not malicious. Consultants, mindful of their bottom line, dolly up what their employers want to hear in a comforting report, and ... well, you know the rest.

Source: *Tony Abbott will rue cutting advisory boards* by Wendy Harmer, *Sydney Morning Herald*, 31 May 2015 <http://www.smh.com.au/comment/tony-abbott-will-rue-cutting-advisory-boards-20140530-zrrxo.html>

Rebuilding community

Although the summit discussed more than the government's slogans of growth, tax changes and jobs, it failed to address the need for setting a broader agenda that deals with social cohesion and the need for increasing trust in the political system.

This belief seriously undervalues voters' capacities and beliefs. While an increasingly globalised market has led to increased GDP and net wealth over the past 30 years, all is not rosy.

Australians need policies that rebuild community trust and reassure voters that their quality of life does require collective goodwill, not just growing GDP. Good governance depends on citizenship and leadership as well as policies that meet public good/common good and fairness tests.

Source: *Social stability is the missing link underpinning economic growth* *The Conversation* Sept 1, 2015 <https://theconversation.com/social-stability-is-the-missing-link-underpinning-economic-growth-46731>

G. Government in crisis

Competition for power and between belief systems has replaced the democratic ideal of government by the people for the people. Self-interest has replaced social responsibility. Managing and salesmanship have replaced consultation. As a consequence government has lost touch with the community it is there to serve.

Political parties sell their beliefs and policies as if they are hamburgers and with as little concern for the consequences that the nutritional ingredients will have for society. The wider community increasingly has less interest in these as it knows it is being misled but can do little about it.

Government has become a marketplace and the investors in the political marketplace are big business and the unions. Like any big business the parties are responsible to their investors and protect their interests. They have a message to sell and they are more focused on outcomes for themselves and their party than integrity and the community they were elected to serve. It has become "a contest in which whichever one wins does pretty much what it likes".

What we have is dysfunctional political alternatives that are each offering their policies and not serving the community and the country. Each has a cupboard full of skeletons it is hiding away.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

The consequences are reflected in multiple critical analyses and in community disenchantment. We have few choices and express our disenchantment by voting parties out of power. Parties gain power by default because there is no real alternative.

The difficulty for politicians is that this is a global problem. Politicians are trapped in global paradigms just as nurses and the frail elderly are trapped by the marketplace. No one has the courage or the confidence to break out.

Examples

Democracy failing

... Well, I think, really, public expectations have dropped off those requirements because politicians have ignored them for so long. They're really requirements of what we call representative democracy, which is a system in which a parliament is elected to represent the people and to govern on behalf of the people. Whereas the political parties of today see it rather as a contest in which whichever one wins does pretty much what it likes.

And so I suppose, if we're ever going to get back to the proper representative democracy, it will have to come through pressure from the public to force the parties to acknowledge these requirements and it seemed appropriate in the present circumstances to start that pressure going forward.

Source: *Former corruption commissioner fears for the future of good governance Tony Fitzgerald on ABC 7.30 Report, 28 Jan 2015* <http://www.abc.net.au/7.30/content/2015/s4170096.htm>

... What these various symptoms indicate is a more general but disturbing trend: the inability of our leading politicians to articulate a thoughtful let alone imaginative approach to policy.

... reflects a multifaceted worldwide phenomenon with deep currents that insert themselves into economy, society and culture in mutually reinforcing ways within and between countries.

... The dialogue needs to be international in scope and inspiration. In the global age, the notion of "democracy in one country" is no longer feasible. Political reform in Australia cannot proceed in isolation from the rest of the world.

... Fortunately, the communications revolution is making it possible - - - . Can we seize these opportunities to fashion a new understanding of citizenship and with it institutions and practices better equipped for effective and humane governance?

Source: *Democracy in crisis by J Camilleri in The Age, 29 Dec 2014* <http://bit.ly/1BfXQ09>

Human rights ignored

"There is currently a significant and growing momentum towards the introduction of a Human Rights Act, triggered by our recent, first-hand experience witnessing the Newman Government erode our democratic rights and override the basic rights of individual Queenslanders," Michelle O'Flynn, Director of Queensland Advocacy Incorporated (QAI) said.

- - the Newman Government's hard nosed approach to many issues that in the end affect the most vulnerable in the community.

Source: *QLD NFP Calls for Human Rights Act - Pro Bono Australia* <http://bit.ly/1TfAK5M>

Our research has focused on the extent to which four such fundamental legal rights are abrogated in current acts of the federal parliament

In each of these areas we have discovered numerous legislative provisions that remove or undermine these fundamental legal rights.

Source: *The state of fundamental legal rights in Australia: An audit of federal law The Institute of public affairs. December 2014* http://ipa.org.au/portal/uploads/The_state_of_fundamental_legal_rights_in.pdf

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Politics as a business

... Running a country is nothing like running a business. But if the "Open for Business" Abbott government, which so often frames its policies in corporate language, was to be judged by corporate standards, it would be facing a shareholder revolt.

... knowingly lying to your investors or your customers is illegal -- it's also just bad business practice. - (selling off) their profitable assets in order to reduce low interest debt. - - - - distribute profits to shareholders because they didn't have any ideas where best to invest for growth ...

Source: *It's time the government stopped trying to run the country like a private company* The Canberra Times, 30 Jan 2015 <http://bit.ly/1PCjmkH>

Excluding the community

Liberal leadership contender Scott Morrison has almost completely stripped his departmental bureaucrats of the power to answer questions from journalists.

The same tightly controlled media management style he displayed while overseeing immigration issues during operation sovereign borders has been brought to the social services portfolio.

Source: *Scott Morrison exercises tight media control in Department of Social Services* Canberra Times Aug 27, 2015 <http://bit.ly/1US8VS4>

Policies for sale

.. Our key decisions for the future of Australia are now being outsourced at a level never before seen. Parliamentary democracy is going through its own sort of privatisation. Bigger dollars come into the party coffers at exactly the same time as less and less of the necessary work gets done. We are trapping ourselves ..."

In 2011, the year when real democracy was peaking, political donations surged up to about \$110-\$130 million for each of the two major parties. Power was threatened and it was responding how it knew best: donate to win back control. Sadly, political parties took the money and ran.

The commercial influence on public decision-making is more important than anything else right now. Australia is losing its future unless we change.

Source: *Rob Oakeshott: How big business hijacked parliament* - The Saturday Paper 8 Aug 2014 <https://www.thesaturdaypaper.com.au/topic/politics/2014/08/09/rob-oakeshott-how-big-business-hijacked-parliament/1407506400>

The money-politics nexus has other, less sensational but no less troublesome dimensions. Foremost among these is the growing dependence of political parties on private gifts and donations for electioneering purposes. And with this comes increasing reliance on paid advertising in which the political message centres more on advertising technique than policy content.

Source: *Democracy in crisis* by J Camilleri in The Age, 29 Dec 2014 <http://www.theage.com.au/comment/democracy-in-crisis-20141228-126quk.html>

Power of the market

There is a major barrier to health reform. It is the power of providers or at least their assumed power. When I was asked by the National Hospital and Health Reform Commission - - - I said 'power', the power of providers. I don't (think) the Commission got what I was driving at!

A succession of Australian health ministers may have been in office but they have not been in power. - - - a generic problem in public policy today.

The Ministerial/Departmental model in health has failed. It is incapable of contesting the power of the rent seekers. The community is effectively excluded.

Source: *Health Policy Reform: Part 2 - Why reform is difficult. Health ministers are in office but not in power* - John Menadue, 28 Jan 2015 (Also on Crikey website) <http://johnmenadue.com/blog/?p=3133>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Tipping the playing field away from civil society

A key feature of authoritarianism is that the government is above the law – it is not accountable to the people for its actions. In contrast, under a democratic system, the rule of law means that the government is constrained by law and can be held accountable by the people.

From its failure to decry the Metgasco decision, we might deduce that the government supports the capacity of mining companies to challenge government decisions, while wishing to deny the same right to community groups.

Source: *The government vs the environment: lawfare in Australia* The Conversation August 18, 2015
<https://theconversation.com/the-government-vs-the-environment-lawfare-in-australia-46205>

“The Ministerial/Departmental model in health has failed”: Government and industry become so aligned that government departments refuse to do their job and address failures in the system. They become paranoid at any threat to the marketplace and the fear that someone will speak out.

It was nurses working in the health department that spoke out in 2012. They spoke out about their impotence in the face of rotting in the aged care system. An independent Capability Review 2 years later revealed just how paranoid the health department was.

SALLY SARA, REPORTER: The Federal Government pours more than \$7 billion into the residential care of elderly Australians. But tonight, insiders are blowing the whistle on rotting in the system.

NURSE (female voiceover): "The public would be absolutely horrified if they knew what was going on."

NURSE (female voiceover): "It's just so unethical. It's corrupt. The scale of the rotting is huge. It's taxpayers' money."

NURSE (female voiceover): "We were told to look the other way, tick it all, let it go through."

NURSE (female voiceover): "I was told many, many times it was not my money."

Source: *Funding feeds profits over aged care* ABC 7.30 Report, 16 August 2012
<http://www.abc.net.au/7.30/content/2012/s3569659.htm>

But Ms XXXX (head of department) was also found to have presided over a department that was "hierarchical and siloed" with a "command-and-control" approach to management and where public servants were afraid of the consequences of mistakes or to break bad news to its leadership.

Source: *The federal Health Department: 80-hour weeks, bullying, command and control* - The Canberra Times, 8 Dec 2014 <http://bit.ly/1qcKkem>

Buying the policies you want is a global problem. In the USA satirists write spoof articles like the one quoted from the *New Yorker*, below. Australia may not be the only country where big businessmen write government policy.

Now soliciting bribes has been relabelled "fund raising" and bribery itself, "lobbying". Banks rarely need to ask for specific favours if politicians dependent on the flow of bank money to finance their campaigns, are already allowing bank lobbyists to shape or even write the legislation that is supposed to "regulate" their banks. At this point, bribery has become the very basis of our system of government.

Source: *The Democracy Project* by David Graeber (London Allen Lane 2013 pp 114-115)
<http://www.penguinrandomhouse.com/books/220295/the-democracy-project-by-david-graeber/>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

- -a consortium of billionaires today warned that if their taxes are raised they will no longer have enough money to buy politicians.

"And let's say you buy a senator like Jim DeMint and he decides to quit," Mr. Adelson says. "Good luck trying to get your money back."

Source: *Billionaires Warn Higher Taxes Could Prevent Them From Buying Politicians* - *The New Yorker*, 9 Dec 2012 <http://www.newyorker.com/humor/borowitz-report/billionaires-warn-higher-taxes-could-prevent-them-from-buying-politicians>

Fanning anxiety encourages a rush for the certainty of ideology

We've had this constant barrage of fearful innuendo, fearful messages, press releases, and this is just another one on top of this barrage of fear-producing rhetoric that's been coming out of Tony Abbott, Peter Dutton and others

Source: *Australian Border Force: Operation Fortitude part of agenda to spark fear into public*, Tony Windsor says ABC News Aug 29, 2015 <http://ab.co/1RGNKvP>

Paradigm paralysis or just inertia

Reform disrupts established arrangements. In general, the longer those arrangements have persisted, the greater becomes the pent-up need for reform, meaning that reform is going to be disruptive to existing interests. By the same token, as arrangements become more entrenched, the more do those who benefit from them feel threatened, and the more political clout they develop to resist reform.

Source: *Health Policy Reform: Part 2 - Why reform is difficult. Health ministers are in office but not in power* <http://johnmenadue.com/blog/?p=3133>

Mr O'Neill (National Seniors) says there has been a decade of inaction on aged care. "It hasn't arisen overnight this problem. It's been there and governments have tended to push it away and ignore it, hoping it will go away and instead we've now got a situation where we've got a system that's unsustainable," he said.

Source: *Aged care in crisis, report finds* - ABC News, 15 Sep 2010 <http://ab.co/1MOECnB>

Corruption

If corruption does not exist in Australia's federal sector, it would make Canberra the only corruption-free place in the world

I am satisfied, based upon my work over four years with the two premier anti-corruption bodies - - that we are grossly underestimating the nature and extent of corruption,- - .

So it is that at a time when the rest of the western world is cracking down on corruption, Australia is moving backwards and not forwards.

It is said 'Australia is open for business'. Are we willing to accept corruption as just part of the price of doing business in Australia?

Source: *The invisible worm: how corruption invades and destroys a community* ABC Radio National 20 July 2015 (Geoffrey Watson – legal council) <http://ab.co/1Mxs4WO>

Insight doesn't help: It seems that the present Prime Minister recognised the problems in our democracy before he became Prime Minister. What he seems to be advocating is participatory democracy in which government is elected to work with us in developing policy and make decisions. The present system where we are forced to select between competing alternative packages of policies, many of which we would not support is not true democracy. We have depended on senate minorities and independents (however elected) to protect us from those policies we did not want. It is worrying that Turnbull has now moved to remove the independent senators that have obstructed his own policies which many of us don't want. How much of his speech was simply a strategy in his bid for the top job?

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Whatever his personal views, now that he is the Prime Minister facing an election he must conform and do what he must to gain power. To maintain the support of a party that has very different ideas to his own he must support a "tyranny". Once again it seems to be that it is not the individuals but the system, the context within which the political contest is fought, that is the problem. Individual politicians are trapped in it and can't find a way out!

- - a society where a majority can do whatever it likes is not a democracy - it is a tyranny.

The notion that the majority entitles the government it appoints to rule as it pleases is as pernicious a doctrine in our times as the divine right of Kings was in the time of King John or King Charles I.

The genius of a liberal democracy is that - - it also constrains that majority, or its government, through the rule of law.

Source: *Magna Carta and the Rule of Law in the Digital Age* Malcolm Turnbull *The Sydney Institute* July 7, 2015 <http://bit.ly/1LVR4Hi>

Disgust

"... Let me start by saying that in my view, the current Prime Minister (*Abbott*) is the worst in our history. The current Government is probably the worst in our history. But we also have the least effective Opposition in living memory.

It will not be news to you that a lot of people – at least those who think about their vote instead of voting out of habit – must be wondering whether either of the major parties is worth voting for. In my opinion, they aren't ..."

Source: *Speech to Labor National Conference 21 Jul 2015* (*Julian Burnside*)
<http://www.julianburnside.com.au/speech-to-labor-national-conference/>

Electorates displeased with the outcome feel they can do no more than punish the party in office and elect their opponents, and so the cycle continues with little prospect of significant change in either policy direction or political culture.

Source: *Democracy in crisis* by J Camilleri in *The Age*, 29 Dec 2014
<http://www.theage.com.au/comment/democracy-in-crisis-20141228-126quk.html>

Rebuilding society: Ideologies gain power and maintain it by eroding civil society. Some citizens are fighting back and calling for change

Time may be running out for political agendas that offer material rewards but not social well-being. More evidence is emerging of continuing damage to social stability and cohesion.

- - - a continuing belief in an Australian "fair-go" compact, which no-one in power is recognising by prioritising social policies that are seen as fair and trustworthy.

Australians need policies that rebuild community trust and reassure voters that their quality of life does require collective goodwill, not just growing GDP. Good governance depends on citizenship and leadership as well as policies that meet public good/common good and fairness tests.

Source: *Social stability is the missing link underpinning economic growth* *The Conversation* 1 Sep 2015
<https://theconversation.com/social-stability-is-the-missing-link-underpinning-economic-growth-46731>

The Participatory democracy movement hopes to do something about our political system

We aim to replace the adversarial with the deliberative, and move out of the "continuous campaign" cycle.

Source: *The new Democracy Foundation web site* accessed 12 June 2015
<http://www.newdemocracy.com.au>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

For more material see: Politics is broken Aged Care Crisis web site Jan 2016

<http://www.agedcarecrisis.com/solving-aged-care/part-4/politics-is-broken>

H. Government ability to control markets

A perception in society that it is government and not citizen's responsibility to regulate monitor, control and protect the vulnerable has been accepted by government. In practice they seem to have a powerful corporate tiger by the tail and they are dragged wherever the tiger wants to take them. It is not in politicians interests to have scandals while they are in office. Government regulators like to deal with these issues quietly as questions will always be asked about their competence.

Governments ability to regulate, control and protect the vulnerable is seriously limited. It simply does not have the capacity and is too far removed from where the real action is. Government bodies are no match when strong pressures in society result in widespread misconduct and the exploitation of the vulnerable. In the absence of effective customers and an active civil society it depends on whistle blowers in a system that is structured to muzzle them. They lack credibility and are not believed.

We need only look at the recurrent failures on Wall Street during the 20th century as well as the market failures across the global banking industry – sectors that serve vulnerable citizens. Then there are the multiple recent market failures in vulnerable markets in Australia. ASIC has been heavily criticised and seems to lack teeth.

The failure of government regulation of aged care in the USA and the UK is mirrored by that in Australia, where the structures are even more ineffective because we do not collect the information that would tell us what is happening – or for that matter make sensible policy.

Regulation, oversight and penalties all deal with the problems after the event and then only with the most extreme examples of misconduct. Dysfunction smoulders until someone else goes too far. Civil society by bringing values, ethics and morality to the process of decision making within communities addresses the problems at their source. It prevents them.

The role of society in controlling behaviour: Not only does a functioning society involve citizens, it builds networks of people who build community values and ethics – social capital. Eva Cox explored these issues in her Boyer lectures on “Civil Society”. Citizens (civil society) have a critical role in regulation. It is government working with civil society, creating contexts that empower citizens that enables civil society to give expression to community values and exert the sort of social pressures on its members that confront, stigmatise and prevent unsuitable behaviour. Sociologists call it “social control”. The law and government regulators are a last resort for major offences and not the front line in managing behaviour.

I. Political gullibility and staffing

In the 1990s large international consulting groups, assisting US health and aged care companies to globalise advised their clients to “play on politicians pain”. One who did so very successfully was the founder and chairman of a US company called Sun Healthcare. He was the ultimate conman. He gained credibility by telling politicians in the USA what they wanted to hear.

He claimed that aged care was costing far too much because its workforce was over-skilled. You did not need trained nurses to wipe bottoms and bath someone. Costs could be contained by reducing the number of nurses. In their ignorance politicians and corporate competitors willingly accepted this

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

nonsense. Sun Healthcare built a meteoric empire by not caring for its aged residents and exploiting vulnerabilities in the regulatory system. Competitors soon followed.

While Sun Healthcare and its chairman collapsed these ideas were so appealing that they survived. The staffing problems that have plagued the aged care system in the USA and eroded care in that country can be traced back and attributed in part to the acceptance of these beliefs and the inability of political policy to challenge and reverse the changes that they made in the 1990s.

Sun Healthcare entered Australia in 1997 and its chairman met with and spoke to the politicians and the corporations eager to capitalise on the potential of the new aged care market – a market they had been lobbying for and which they even claimed to have designed. His influence was soon apparent in statements made by both the ministers for health and for aged care.

In the absence of solid data it is not possible to quantify the consequences of the policies of deskilling and reducing staff costs that were accepted by government at that time. They were implemented by businesses and have underpinned their marketplace success. A change in policy would have impacted on their competitiveness and on government plans for the sector – no one has been prepared to accept that all their projections for the future costs of aged care were based on a false premise.

We suggest that the success of the policy depended on this belief and it was not possible to reverse this policy without losing credibility. Aged care policy is still trapped in the paradigm paralysis that resulted. Adequate provision had not been made in the budget.

We invite the committee to review the accounts given by nurses and residents in their submissions and consider whether what they describe is a consequence of policies that successive governments have been trapped by. The challenge your committee faces is finding a way out of this. We are trying to offer you one that might work.

Examples

In an interview in the Australian Nursing Homes and Extended Care Association's monthly newsletter last March, Bishop (minister for Aged Care) was quoted as saying the only standard of training required in a nursing home was "middle-aged women providing tender, loving care".

Source: *Crimes of neglect (The Australian, 4 Mar 2000)*

An article "Wooldridge injects \$500m for reform" in the Courier Mail 18/12/97 reported health minister Wooldridge's plans to "trigger a health revolution" by offering Australian states cash to move away from "traditional hospital based care" and "towards innovative models of health care". The great plan was to construct "health half-way houses" or "step down facilities".

Source: *Wooldridge injects \$500m for reform Courier Mail 18/12/97*

What a strange coincidence that it was by exploiting step down care and using large numbers of therapists to over-service these patients in its US nursing homes (while neglecting the unprofitable frail elderly) that Sun Healthcare had so rapidly built its massive empire. Sun's chairman Andrew Turner had recently visited Australia and met with our politicians.

Soon after this our government was supplied with documents revealing what had happened and the health revolution was never mentioned again. The US government stopped the rorting, vast numbers of therapists recruited from around the world lost their jobs in the USA and Sun was soon bankrupt. Like many true believers including those responsible for the massive US health and aged care scandals Turner was unable to accept that he was wrong. He continued to claim to be an aged care expert and expound his views to anyone who would listen.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

J. Uncontrolled markets ignore evidence and degrade humanitarian values

Effective health and aged care is driven by evidence and motivated by humanitarian values. Markets are driven by the need to profit and the ambitions of entrepreneurs. Like politics, markets seek to control information and use it for their own purposes. Scientific rigour is often lacking. Evidence or opinion that is challenging is often discredited. Those who criticise are attacked and stigmatised. Nowhere is this more evident than in health and aged care, both in the USA and Australia.

Examples in Australia

In Australia we don't collect and report data. The public depends on whistleblowers to tell us what is happening in aged care. The extracts below tell us what happens to anyone who exposes failures in the system. That so many have spoken out speaks for their dedication and commitment.

The organisation's response to the whistleblower is very powerful and follows a recognisable pattern. It is crushing in its intensity, as the organisation can use as many staff as it takes, for as long as it takes, to wear the lone whistleblower down.

There is almost always some kind of disciplinary action, often on "unrelated" matters, up to and including dismissal. - - - In the WBA study, 20% were dismissed and 14% were demoted; 14% were transferred (to another town, not just within the department); 43% were pressured to resign; and 9% had their position abolished.

There is often some kind of legal action, - - - - this occurred in 20% of cases.

Source: *What happens to whistleblowers and why* by Jean Lennane 1996 *Past president Whistleblowers Australia* http://www.bmartin.cc/dissent/documents/Lennane_what2.pdf

A MOUNT Eliza nursing home ignored "numerous" complaints about a worker accused of raping four elderly residents, and later dismissed workers (who manager had torn up their complaint) for not speaking up sooner, a court has heard.

Source: *Elderly assaults ignored, court told* *The Aged* 11 July 2006

Fear of retribution is one of the biggest and unaddressed reasons for the failure of all the reinvented complaints schemes. Staff fear for their jobs, and relatives are reluctant to complain fearing the care of their loved ones may be compromised.

Source: *Vulnerable elderly deserve better care* - Lynda Saltarelli in *The Age* - Opinion, 19 Nov 2007 <http://bit.ly/25tw54Q>

I've had contracts terminated and we sold our home and moved to another town because of the professional bullying that I was undergoing because I was revealing the outcomes of that PhD research.

Subsequently it's then difficult to get back into residential aged care to do other research, however I have found a wonderful place on the mid north coast that will allow me back in.

Source: *Productivity Commission Inquiry - Caring for Older Australians: - evidence of Dr Bernoth: Transcript of Proceedings* - Canberra (**see page 1371**) 5 Apr 2011 <http://www.pc.gov.au/inquiries/completed/aged-care/public-hearings/20110405-canberra.pdf>

... In fact, many say they experienced bullying by the nursing home when they did complain. Astonishingly, Jane Green was threatened with defamation for complaining about her mother's treatment to the health practitioners authority ..."

Source: *Aged Care Crisis* - ABC Lateline, 15 Jul 2013 <http://www.abc.net.au/lateline/content/2013/s3803710.htm>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

The nurse interviewed below witnessed her managers covering up the death of a resident who was not adequately supervised. She notified the police. She was fired the next day. She thinks those who tried to cover up their failure got off far more lightly than she did.

SXXXXX MXXXX: They intimidate nurses because at the end of the day you're employing somebody who has come from...especially me, I've come from Africa, a Third World country with absolutely nothing.

Honestly I don't think they paid any price, they need to be punished, they need to be an example in the industry that something like this shouldn't happen and bullying of nurses especially, it's unacceptable.

Source: *Death in a five star nursing home - ABC Background Briefing 21 Sep 2014*

<http://www.abc.net.au/radionational/programs/backgroundbriefing/2014-09-21/5753372>

In the example below, the manager who alleged that abuse had been covered up (which the company strongly denied and still denies), was fired.

- - - staff indicated (to management) that for some time they did not say anything as they feared having their shifts reduced, while the families of residents were concerned that speaking out would lead to more mistreatment. - - -

Source: *We covered up abuse: aged-care manager - The Australian, 21 Feb 2015*

K. Collecting data in Australia

Australia distinguishes itself by its failure to collect any useful information about the aged care service it provides and this may be one reason why a lid has been kept on its failures for so long. In the late 1990s all regulation and oversight was replaced by two government controlled and market sympathetic structures.

The first of these, accreditation, was not designed to collect information. Its theoretical underpinning and mode of operation are unsuitable for the role it has been given. It substituted knowledge of processes for hard data. It was not designed as regulator and is ineffective. The occasional data it collects is of little use to customers and of no use to policy makers. Its analysis of the limited data it does produce is so flawed that it obscures what is happening.

The second, the government controlled complaints system has been the subject of extensive criticism and the data it generates is controlled and of little value. The community has little confidence in it.

The consequence is that in Australia we have a market system in aged care that is characterised not only by vulnerable customers but by a system that denies them the information and support needed to be a customer and protect themselves. This situation could only arise in a society in which civil society no longer operates effectively.

Examples

Complaints system

"... The problem is the public has no idea how well or how poorly these nursing homes are doing," she (Combined Pensioners and Superannuants Association spokeswoman Charmaine Crowe) said.

"... It's not possible to know how many complaints have been substantiated against a facility. You may walk into a facility that's had 30 complaints upheld in the past 12 months and you'd never know.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

"... It's being run like a secret society."

Source: *Aged Care complaints kept secret* (Sydney Morning Herald, 27 Sep 2014)
<http://www.smh.com.au/national/aged-care-complaints-kept-secret-20140927-10myjn.html>

Accreditation system

Accreditation standards are meant to ensure quality of care but in this study, they failed to sufficiently ensure a high standard of nutrition. A number of factors were found to explain this, including lack of prescriptive standards, poor staff knowledge and attitudes, very stringent budgetary constraints, and a general failure to perceive the importance of nutrition as a part of clinical care.

Source: *Nutritional status and its consequences in low level aged care: implications for aged care accreditation standards and guidance* - Monash University - Thesis 2013
<http://arrow.monash.edu.au/hdl/1959.1/904487>

- - we have less frequent data on factors such as staffing.

In relation to quality we have only qualitative data on the outcomes of individual accreditation reviews.

The Australian Aged Care Quality Agency does not publish any data that would assist the assessment of the relationship between structural and regulatory reforms and the provision of quality services.

Assessment of the impact of past and future reforms on quality is challenging in the absence of good baseline data.

- - (a list of changes being made) - - should be considered primarily on the impact that these changes will have on quality of life and care for consumers.

Source: *Unfolding changes warrant greater scrutiny by Richard Baldwin Australian Ageing Agenda newsletter May-June 2015 p20*

Accreditation figures reported each year have consistently claimed that there is no difference between for-profit and not-for-profits in performance. They have also reported that rural facilities perform more poorly than urban ones.

Recent research had shown that for-profit facilities were sanctioned for poor care more than twice as often as not-for-profit and this had aroused widespread interest. In spite of this, the agency made the following claim at an industry conference in 2015:

Not-for-profit aged care providers are no better at meeting accreditation standards than for-profit organisations and ownership type has "no discernible" impact on passing accreditation, the Australian Aged Care Quality Agency has said.

The agency's Queensland state manager, Txxxxx Rxxx, told the LASA Queensland conference last week that ownership was not a performance factor.

"There's been some suggestion in the industry and in the community that the not-for-profit providers are better at meeting expected outcomes than the for-profit providers – that is not what our data is showing us at the moment," she told the event.

"It shows that there is no discernible difference at an industry level in their performance at audit at all."

"We know remote services have difficulty meeting the accreditation standards more than, for example, providers in the cities and that has a lot to do with workforce. But certainly we are seeing no discernible difference between the for-profit and not-for-profit sector."

Source: *Quality Agency rejects ownership factor on accreditation* - Australian Ageing Agenda, 25 Mar 2015
<http://www.australianageingagenda.com.au/2015/03/25/quality-agency-rejects-ownership-factor-on-accreditation/>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce



NOTE: What the agency did not tell the audience was that for-profit providers operated only in urban areas and their own figures showed clearly that to perform equally well, not-for-profit providers would have to be performing several times better than for-profit in urban areas.

The agency was well aware of this because Aged Care Crisis had done its own study using the agency's data in 2008. They showed that not-for-profit providers performed very much better in urban areas than their for-profit competitors. The study showing that for profits were sanctioned more than twice as often had also properly controlled for variables – comparing apples with apples and not a skewed mixture of apples and oranges.

Aged care Crisis also discovered in 2008 that there were four times as many facilities failing an accreditation standard than the agency was reporting each year. In this 2015 paper it was reporting its results in the same way. The agency was challenged on its figures and asked to correct this. It did not respond.

It is not possible to have a functioning market when neither customers nor civil society has access to the data needed to evaluate the services provided. It is not possible for government (even if it worked with civil society) to make coherent and sensible policy if it does not have the information needed to do so.

In Australia we do not collect reliable information about staffing and we have no accurate information about failures in care, standards of care or quality of life. We don't even try to collect this data. The accreditation process has belatedly started collecting some self reported data on staffing but that is kept secret. No other country uses accreditation data to assess standards of care and doing so would not be credible. The state structures that once collected data were dismantled in the 1990s.

We do not think that the committee has the information needed to make sound recommendations. Critically important for reform will be the creation of an effective system to collect and publish information that is useful to customers, to civil society and to policy makers.

The paucity of any useful data in aged care has recently been highlighted by an ACSA report. The CEO of Alzheimer's Australia has spoken out strongly about the lack of data.

The only reliable academic analysis comparing provider performance shows that for-profit providers in Australia are sanctioned more than twice as often as not-for-profit providers. This is in keeping with international data and with the limited study by ACC in 2008. This suggested that when properly analysed, accreditation data showed that for-profit owned facilities failed an accreditation standard several times more often than not-for-profit owned facilities.

Examples: An absence of data

I am disappointed that the Framework does not put more emphasis on the quality of services provided. - - - But at the same time it is not sensible to look at pricing and costs without also addressing issues of how funding relates to quality of care.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: Glenn Rees CEO Alzheimers Australia in a letter to Aged Care Funding Authority 2012

The available data on performance and sustainability of the sector appears to be based entirely on an assessment of financial metrics. There is no attempt in any of the reports reviewed to balance financial performance, financial viability or system sustainability with quality of care and outcomes for residents, or with community expectations or objectives. These financial estimates appear to make the assumption, but it is not explicitly stated, that all operating RAC (*Residential Aged Care*) service are of equal and acceptable quality.

There appears to be a significant gap in our knowledge of the relationship between financial performance and of quality and between staffing levels and quality.

Source: *The financial viability and sustainability of the aged care sector ACSA report 2013*
<http://bit.ly/acsa-fin-viab-sust-aged-care-sector>

(CEO Alzheimer's Australia) We still don't have a single measure of quality in aged care services, and this is critical, because it goes hand-in-hand with ensuring that you can provide quality information to people about what choices they do actually have and how they compare.

RICHARD BALDWIN (*Researcher into failures in care*) There's not much, very little, or none basically, collection of comparable data to tell us how good one particular service is over another and to enable consumers to make reasonable choices between different service providers.

So, that's one of the inadequacies of the system and we really should have a much better system in place around the measurement of data.

Source: *Better data needed to compare aged care* ABC Radio pm 24 Nov 2015 -
<http://www.abc.net.au/pm/content/2015/s4358621.htm>

Extensive data from the USA has compared different types of provider. Before looking at that we need to look at the information available in Australia.

Examples: Impact of the type of provider on care - Australia

When rural facilities were excluded:

The private-for-profit aged-care homes now had twice the number of homes failing one or more standard than the government operators, three times that of any of the not-for-profit operators and almost 4 times the religious based subgroup – the largest of these. – – –

We express our concern that the higher proportion of private-for-profit operators within the failing facilities may have been because both financial and human resources are being diverted from the care of the frail, older people to the business of generating profits and capital expenditure compared to the ongoing costs of providing quality care and ensuring there is adequate and experienced staff to look after residents.

Source: *Aged Care Report Card Aged Care Crisis web site 2008*
<http://www.agedcarecrisis.com/aged-care-report-card>

– – – it (Australian Government) appears to be indifferent to other structural factors. – – –

Neither the previous, nor the current, Australian Government has indicated a preference on the future mix of service providers, the growth of large providers, or the size of facilities. This suggests that policy makers, even in the light of the available evidence, have enabled these trends to continue through their silence, or are at least comfortable with the direction in which the industry is headed.

– – – there had been little community debate on what is preferred. There is clearly a need to obtain more evidence on the impact structural change will have on the quality of care and the performance of the industry. There is also a clear need for wider community debate on the future shape of the residential aged care industry in Australia.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: *Residential Aged Care Policy in Australia - Are We Learning from Evidence?* - Baldwin R et al
Australian Journal of Public Administration, vol. 00, no. 0, pp. 1-14
<http://onlinelibrary.wiley.com/doi/10.1111/1467-8500.12131/abstract>

For-profit aged care services have a higher rate of regulatory failure, according to new research that found private providers were more than twice as likely as not-for-profits to have government sanctions imposed on them over a 13-year period.

Mr Baldwin's analysis supports the findings of previous local and international research. The higher rate of sanctions in for-profit services was first identified by Australian gerontologist Anna Howe and Dr Julie Ellis in 2010

Source: *For-profit providers more likely to be sanctioned: study* - *Australian Ageing Agenda*, 8 Oct 2014
<http://www.australianageingagenda.com.au/2014/10/08/for-profit-providers-more-likely-sanctioned/>

There have been several papers and articles about failures in care, staffing, policy and the need for public debate

- Nurses in the aged care system - The Corporate Medicine website, September 2006
http://www.corpmedinfo.com/nh_nurses.html
- Researchers warn of two-tier aged care *Australian Ageing Agenda* 13 Feb 2015
<http://www.australianageingagenda.com.au/2015/02/13/researchers-warn-two-tier-aged-care/>
- Quality failures in residential aged care in Australia: The relationship between structural factors and regulation imposed sanctions *Australasian Journal on Ageing* Volume 34, Issue 4, pages E7–E12, December 2015 <http://onlinelibrary.wiley.com/doi/10.1111/ajag.12165/abstract>

There are reports that give us some idea of what has been happening in the workplace and with staffing:

(CEO of National Seniors) If you look at some of the detail of these cases, a lot of them are around the adequacy of the care being delivered, and breaking that down further, it comes very much back to resourcing levels, to staffing levels and then within staffing levels the number of registered nurses, the qualifications of the staff there.

Source: *Aged care under strain* ABC - *The 7.30 Report*, 14 Sep 2010
<http://www.abc.net.au/7.30/content/2010/s3011781.htm>

Unfortunately, non-nurses who provide the majority of care, under the distant supervision of nurses relegated to documentation, are providing a substandard level of nursing care to residents. Compounding this skill mix are atrocious staffing levels and punitive measures through the funding and accreditation schemes.

The federal government has a policy of non-nursing in residential aged care and the industry uses economic rationalism that aims to make a surplus or profit. This has been at the expense of nursing and the quality of nursing care able to be provided, and has also led to never ending battles between relatives who advocate for their loved one's care with staff or managers in the aged care organisations. **Instead of a partnership – it becomes a struggle.**

Source: *Dr AAAA - Submission 248 to Productivity Commission* (10 Jul 2010)
<http://www.pc.gov.au/inquiries/completed/aged-care/submissions/sub248.pdf>

An inadequate aged care system has a ripple effect on society. It affects the wellbeing of older Australians, which in turn affects their families and friends. Speak to the son or daughter of someone with Alzheimer's whose carers try their best but are not adequately educated in Alzheimer's care.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: *Ageing population missed by Abbott's ministry* by Emily Millane is a Research Fellow at Per Capita ABC News, 17 Sep 2013 <http://www.abc.net.au/news/2013-09-17/millane-ageing-population-abbott-ministry/4963116>

The workforce challenge facing residential aged care was worsening, as vacancy rates for registered nurses (RNs) in aged care rose to 33 per cent in 2012, up from 26 per cent in 2003, while RNs made up just 15 per cent of the residential aged care workforce in 2012, down from 21 per cent in 2003, the researchers noted.

Source: *Study shows 'crucial steps' to attract graduate nurses to aged care systems* Australian Ageing Agenda 18 Nov 2015 <http://www.australianageingagenda.com.au/2015/11/18/study-shows-crucial-steps-to-attract-graduate-nurses-to-aged-care/#comment-5933>

"The working conditions need to be made more attractive so seniors can get the care that they rightly deserve in Australian society," said Dr Montague. "There seems to be a blindfold over government policy in this area. They seem to think, 'let's worry about this later'. Well, the problem is now and it's going to become a burgeoning problem, a worsening problem as times go on."

(Dr Montague said) "Clothed ears. Blinded eyes. Blunted policy; put it off until we absolutely need to attend to it. While in the interim, the people who are working in the industry and people being cared for in that industry sector are suffering."

Dr Montague said that the lack of attention to the sector's ongoing workforce woes was age-discrimination on a "bureaucratic level."

Source: *Government blind to urgent workforce issues: expert* Australian Ageing Agenda 23 Oct 2015 <http://www.australianageingagenda.com.au/2015/10/23/government-blind-to-urgent-workforce-issues-expert/>

Most studies comparing staffing, failures in care and type of provider come from the USA where in spite of the collection of more data than anywhere else, they have been unable to confront the problems revealed. The data shows unequivocally the relationship between the pressures for profit, staffing and failures in care. The not-for-profits have the most staff and the least failures in care and private equity has the by far worst with for-profit chains in between.

L. International data

Both the USA and the UK have adopted a market based approach to aged care similar to that in Australia. They differ in that both collect far more information than we do in Australia. Aged care in both of these countries is in crisis and is experiencing similar problems to Australia. That in the UK is dominated by private equity but corporate chains are not far behind. This has resulted in enormous problems and bankruptcies that have compromised care in large parts of the sector.

Examples: more information

- International aged care - Aged Care Crisis website Dec 2015 (recent data) <http://www.agedcarecrisis.com/solving-aged-care/part-4/international-aged-care>
- Aged Care and Nursing Homes Corporate Medicine web 2003 (large amount of older US information) http://www.bmartin.cc/dissent/documents/health/access_aged.html

The most reliable and consistent data about staffing and care come from the USA where studies of staffing and failures in care starting in 1994 have shown a clear and consistent relationship between the focus on profitability, staffing levels and failures in care.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Not-for-profit owned facilities have consistently had better staffing levels and fewer failures in care than those owned by for-profit corporate chains. One report indicates that “For-profit homes, on average, have almost 32 percent fewer nurses and 12 percent fewer aides than nonprofit homes”.

Private equity owned facilities which are under even greater pressures to increase profits have been shown to have even less staff and more failures in care than the for-profit chains. The figures get worse the longer facilities are owned by private equity.

Studies in the USA starting in about 2000 have looked at the average number of hours of nursing care provided to each patient per day.

As long ago as 2000, a panel of academics supported by government recommended that each resident get 4.5 hours of care per day. This was because levels below 4.1 hours “may provide a level of care that results in harm and jeopardy to the residents”. A report in 2006 indicated that an 8 year federal study showed that below 2.9 hours per day most residents “needlessly suffer harm.” The average for nursing homes in the USA has been reported as about 3.5 hours per day. In the early 2000’s the U.S. Department of Health and Human Services reported to Congress that “more than nine out of 10 nursing homes lack enough employees to provide adequate care and that most would have to increase staff by at least 50 percent to do the job properly. “

From the leaked Bentley report to the industry it can be concluded that the average number of hours of care in Australia is only 2.8 hours suggesting that in at least half of our nursing homes residents “needlessly suffer harm”. If this is so, then this would be very concerning. Clearly these figures need confirming. It is a sad reflection on the transparency of our system that this sort of information is kept from us.

Examples: Impact of the type of provider on care in the USA

Australian articles about the USA

For instance, in a paper published in 2009, Vikram Comondore and colleagues reviewed 82 studies of residential aged care services and found only three favoured for-profit service providers, while 40 studies favoured not-for-profit services – in relation to more and higher quality staffing and lower pressure ulcer prevalence.

Source: *Unfolding changes warrant greater scrutiny* by Richard Baldwin in *Australian Ageing Agenda* May-June 2015 pages 20-21 <http://alzheimersnswlibrary.blogspot.com.au/2015/05/australian-ageing-agenda-may-june-2015.html>

The most researched structural factor is ownership as it is a predictor of other factors that may influence quality such as staffing levels, organisational culture and financial performance.

- - - most research studies using large samples have reported that residents in not-for-profit facilities enjoy better quality of care and have better outcomes than those in for-profit facilities. - - - The evidence on indicators of financial performance tends to favour the for-profit sector.

USA studies have found that homes owned by the largest aged care providers (those with 10,000 beds or more) tended to have higher failure rates of regulatory compliance per home and these violations tended to be more serious than those of smaller organisations. Larger organisations have also been found to focus on profit maximisation, rather than on quality outcomes, and to provide lower nursing staff to resident ratios than do smaller providers

Source: *The Future of Aged Care in Australia: A Call for Evidence Based Policy - The Policy Space*, 22 Sep 2015 <http://www.thepolicyspace.com.au/2015/22/55-the-future-of-aged-care-in-australia-a-call-for-evidence-based-policy>

Examples: US Articles over the years

 1994

Consumer reviews, the US equivalent of our *Choice* magazine, reported a study of providers exposing the difference in performance between for-profit and not-for-profit.

 1998

A six-month Tampa Tribune investigation has found that residents of for-profit homes had higher than average rates of reported neglect and abuse. Homes owned by four large chains - Beverly Enterprises Inc., Integrated Health Services Inc., Vencor Inc. and Mariner Health Group Inc. - were more likely to fall below state standards than other homes.

About one-quarter of Florida's nursing homes fell below state standards during annual inspections between January 1997 and March 1998. Among four of the state's six major chains - Beverly Enterprises Inc., Integrated Health Services Inc., Vencor Inc. and Mariner Health Group Inc. - the substandard rate was 32 percent to 40 percent.

"All you have to do is look at the nonprofits to see what's happening," said Jean Venturino, a visiting nurse who sees patients in several area nursing homes.

"Maria Manor, Menorah Manor, in St. Pete, they're nonprofit. They have an ethic of caring," Venturino said.

"Investors look at the short term. Investors look at returns and dividends. They're not looking at quality of care," Bell said.

Source: *Money or mercy? - The Tampa Tribune, 15 Nov 1998*

We found that homes run by large, publicly traded companies had more problems, on average, than nonprofits and homes run by for-profit companies that didn't sell stock. So, what was it about having stockholders that changed a company's behavior?

The quest for profits seems to be the obvious answer, but it's more complicated than that. - - - The daily life of a publicly traded company is so intense, as stocks rise and fall minute by minute, the questions of how to nurture workers and care for residents fall by the wayside.

----- And for the most part, they're not customers. They're not in a position to get up and walk out if they get bad care.

Source: *Nursing home solutions start at the top - The Tampa Tribune, 22 Dec 1998*

 2001

Non-profit nursing homes are associated with better staffing and higher quality services as well as with residents having a lower probability of death and infection. Facilities owned by investors have fewer nurses and higher rates of violations, or deficiencies, on annual surveys of nursing homes. Profit making facilities were found to have 30% more violations of standards assessing quality of care and more deficiencies in measures assessing quality of life than non-profit facilities.

Profit making facilities have 20% fewer staff than non-profit and government run facilities. Poor quality care in nursing homes is associated with low wages and few benefits, high rates of employee turnover, and heavy workloads.

- - - and government regulatory bodies are subject to lobbying by the industry. There is also a reluctance to use the enforcement penalties and sanctions available.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: *Regulating nursing homes: Residential nursing facilities in the United States* Charlene Harrington
BMJ VOLUME 323 1 SEPTEMBER 2001

2002

"Reduce the staff. Increase the profits. If you're a corporation, it's good business sense. If you're a nursing home patient, it's obscene greed that could kill you," says Catherine Hawes, a professor at Texas A&M University's Department of Health Policy and Management and the senior investigator on several government research projects.

Her view is typical of many people who study the industry.

"The really unimpressive-looking facilities can be spending their money on staff and be offering great care," Hawes said.

Source: *Inadequate Medicaid payments squeeze homes' level of care* St. Louis Post-Dispatch
October 14, 2002

A panel of academic researchers supported by the government recommended in 2000 that nursing home residents get 4.5 hours of direct nursing care daily. Last year, the Centers for Medicare & Medicaid Services, the division of the Department of Health and Human Services that provides two-thirds of the money to nursing homes, reported that facilities with staffing below 4.1 hours per resident per day may provide a level of care that results in harm and jeopardy to the residents.

This year, the U.S. Department of Health and Human Services reported to Congress that more than nine out of 10 nursing homes lack enough employees to provide adequate care and that most would have to increase staff by at least 50 percent to do the job properly.

"It's pitiful. It's criminal. It's a tragic commentary on our society that people are dying in our nursing homes because they need help and aren't getting it," said Catherine Hawes, professor and director of Texas A&M University's Southwest Rural Health Research Center and a national authority in evaluating nursing home quality. "These preventable causes of death have been known for years, and in moments of despair those of us in the field ask why nothing has been done."

For many for-profit homes, the issue comes down to the bottom line. For-profit homes, on average, have almost 32 percent fewer nurses and 12 percent fewer aides than nonprofit homes, according to a study published last year in the American Journal of Public Health.

"As you have it now, we're stuck with an unhappy, demoralized work force and not enough of them. Realistically, it's a hopeless proposition to improve the quality of care," said Harrington, the professor at the University of California at San Francisco.

They (staff) talked of the climate of fear that permeates a home where poor care is tolerated. Some said they were afraid to complain to management because they feared being labeled a troublemaker or losing their jobs.

Source: *Woefully inadequate staffing is at the root of patient neglect* St. Louis Post-Dispatch October 14, 2002 <http://www.ccfj.net/NHSTLseries7.html>

2006

Five years ago, the Legislature made a promise to nursing-home residents. In exchange for limits on their ability to sue homes for abuse or neglect, Florida promised it would meet federally recommended minimum staffing levels

Why is 2.9 hours per day so important? An eight-year federal study found that below 2.9 hours, most residents "needlessly suffer harm." This means residents aren't fed when they are supposed to be; they aren't turned in their beds often enough to prevent bedsores; or they aren't assisted to the bathroom.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Source: [Still waiting for nursing-home staff increase](http://articles.orlandosentinel.com/2006-02-10/news/MYWORD10B_1_lawsuit-limits-nursing-home-residents) Orlando Sentinel, 10 Feb 2006
http://articles.orlandosentinel.com/2006-02-10/news/MYWORD10B_1_lawsuit-limits-nursing-home-residents

2007

Those investors include prominent private equity firms like Warburg Pincus and the Carlyle Group, better known for buying companies like Dunkin' Donuts.

As such investors have acquired nursing homes, they have often reduced costs, increased profits and quickly resold facilities for significant gains.

But by many regulatory benchmarks, residents at those nursing homes are worse off, on average, than they were under previous owners, according to an analysis by The New York Times of data collected by government agencies from 2000 to 2006.

The typical nursing home acquired by a large investment company (ie private equity) before 2006 scored worse than national rates in 12 of 14 indicators that regulators use to track ailments of long-term residents.

Source: [More Profit and Less Nursing at Many Homes](http://www.nytimes.com/2007/09/23/business/23nursing.html?pagewanted=all&_r=0) The New York Times 23 September 2007
http://www.nytimes.com/2007/09/23/business/23nursing.html?pagewanted=all&_r=0

2011

"The top 10 chains have a strategy of keeping labor costs low to increase profits," Harrington said. "They are not making quality a priority."

Low nurse staffing levels are considered the strongest predictor of poor nursing home quality.

From 2003 to 2008, these chains had fewer nurse "staffing hours" than non-profit and government nursing homes when controlling for other factors. Together, these companies had the sickest residents, but their total nursing hours were 30 percent lower than non-profit and government nursing homes. Moreover, the top chains were well below the national average for RN and total nurse staffing, and below the minimum nurse staffing recommended by experts.

The 10 largest for-profit chains were cited for 36 percent more deficiencies and 41 percent more serious deficiencies than the best facilities. Deficiencies include failure to prevent pressure sores, resident weight loss, falls, infections, resident mistreatment, poor sanitary conditions, and other problems that could seriously harm residents.

The study also found that the four largest for-profit nursing home chains purchased by private equity companies between 2003 and 2008 had more deficiencies after being acquired. The study is the first to make the connection between worse care following acquisition by private equity companies.

Sources: [Low Staffing and Poor Quality of Care at Nation's For-Profit Nursing Homes](https://www.ucsf.edu/news/2011/11/11037/low-staffing-and-poor-quality-care-nations-profit-nursing-homes) Health Services Research Article UCSF 29 Nov 2011
<https://www.ucsf.edu/news/2011/11/11037/low-staffing-and-poor-quality-care-nations-profit-nursing-homes>

2014

A recent study in the *Journal of Health Care Finance* finds that Florida nursing facilities owned by private equity firms have fewer registered nurses and more deficiencies than chain-owned for-profit facilities and that the longer the facilities are owned by private equity firms, the fewer registered nurses they employ and the more deficiencies they have.

Facilities owned by private equity firms had **21% higher deficiencies** than for-profit chain-owned facilities and "there was a positive association of deficiencies with progressive years of equity ownership."

However, other research over the years has clearly documented that for-profit facilities in general,

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

especially those that are chain-operated, employ fewer nurses and have more deficiencies than not-for-profit and publicly-owned facilities.

Source: *Nursing Facilities Owned by Private Equity Firms: Fewer Nurses, More Deficiencies* Centre for Medicare Advocacy, 20 Aug 2014
<http://www.medicareadvocacy.org/nursing-facilities-owned-by-private-equity-firms-fewer-nurses-more-deficiencies/>

"They need to be focusing at the chain level," said Harrington, professor emerita of sociology and nursing at the University of California, San Francisco, who has researched the nursing-home industry for more than three decades.

"These (facilities) are micromanaged at the chain level," she said. "The problems usually exist throughout the chain."

Source: *Unmasked: California falls short in disclosing nursing-home ownership* The Sacramento Bee 11 Nov 2014 <http://www.sacbee.com/news/investigations/nursing-homes/article3657510.html>

M. Aged Care failure in Australia

In Australia, the most telling information about failures in care comes from submissions to enquiries by family and staff, from whistle blowers, and from investigative journalism including journalists who have posed as nurses in order to gain access to nursing homes and then report on what is happening there.

Submissions from community groups, nurses and families keep telling the same story but with little impact. The recent NSW inquiries into Registered Nurses in NSW nursing homes⁶ and into Elder Abuse in NSW have many examples⁷. This must be accepted as valid until such time as properly and transparently collected data shows something different.

The volume of this very critical material speaks for itself. It is no longer credible for politicians and provider organisations to talk about isolated exceptions in an otherwise 'world class' system. They cannot be allowed to blame disgruntled staff. Much of this material comes from staff and this speaks for the situation in aged care and the need to address this as a whole of aged care problem and not simply a workforce issue.

Examples over the years: Australia

2000

Indeed, there is evidence arising that many people who are unqualified and who are working in nursing hostels are repeatedly being asked to do jobs they are simply not qualified to undertake.

Source: *Outrage over nursing home treatment* (ABC 7.30 Report, 25 Feb, 2000)

Victorian Health Services Commissioner Beth Wilson said the case highlighted a complaint system in disarray. Her office had lost power to investigate complaints against nursing homes in 1995.

Source: *Kerosene baths scandal puts heat on aged care*. The Australian, 26 Feb 2000

⁶ http://www.parliament.nsw.gov.au/Prod/Parlment/committee.nsf/0/D7A6228FCC493975CA257E6F0024A87D?open&refnavid=CO4_1

⁷ <http://www.parliament.nsw.gov.au/prod/parliament/committee.nsf/0/9C048DFE66F02D36CA257EB30081BF4A>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

2005

Aged Care Crisis (ACC) included a selection of extracts from letters and emails in its submission to the *Senate Community Affairs References Committee - Inquiry into Aged Care*, in June 2005. In 2015 it put them on its website asking the rhetorical question "what's changed?". They tell the story of aged care.

- [Ten years - what's changed?](http://www.agedcarecrisis.com/news/your-say/209-10-years-whats-changed) Aged Care Crisis 20 Feb 2015
<http://www.agedcarecrisis.com/news/your-say/209-10-years-whats-changed>

2006

MARGOT O'NEILL: It's not only relatives that feel the system is in crisis, but many staff as well. ABC Lateline also revealed last night, allegations from a former staffer at a specialist Melbourne dementia unit, of physical and verbal abuse of patients, unnecessary sedation and serious medication mistakes.

Source: [Aged care abuse reporting scrutinised](http://www.abc.net.au/lateline/content/2006/s1575324.htm) - ABC Lateline, 21 Feb 2006
<http://www.abc.net.au/lateline/content/2006/s1575324.htm>

2009

AGED care has deteriorated in Victoria over the past two years, with some nurses looking after 47 elderly people at a time at nursing homes, compared to 39 in 2007.

The surveys, by Melbourne University, found that in 2007, (staffing) ratios ranged between one to six and one to 39, at worst, at Victorian facilities. This year, the ratios ranged between one to nine and one to 47.

The surveys also revealed increased levels of aggression from nurses and carers towards residents and vice versa. For example, in 2007, 3.6 per cent of participants said they had witnessed a co-worker being aggressive towards a resident at least once in the previous six months, compared to 7.3 per cent this year.

The aggression included yelling and swearing, pushing, grabbing, shoving or pinching a resident, and threatening to throw something at them.

A report written on the surveys by Associate Professor Leisa Sargent, Professor Bill Harley and Dr Belinda Allen said the more residents each nurse and carer had to care for, the more likely they were to report lower levels of job satisfaction, an increased likelihood of quitting their job and feeling emotionally exhausted.

"Participants also reported that the more residents each registered nurse had to care for the less satisfied they were with their facility, and the lower resident safety and care at their facility was," the authors wrote.

In 2007, 11 per cent said they were likely or very likely to leave their job, compared to 15 per cent this year.

Source: [Aged care goes from bad to worse](http://www.theage.com.au/national/aged-care-goes-from-bad-to-worse-20091129-jywn.html) - The Age, 30 Nov 2009
<http://www.theage.com.au/national/aged-care-goes-from-bad-to-worse-20091129-jywn.html>

2010

What greeted me on my return (to nursing) was chaos, staff shortages, stress leave, bullying, neglected patients, and the word budget was now used more than the term patient care.

The lack of staff horrified me. The outward appearance of the facility was attractive to woo potential customers, but staff were at a minimum. There was a Registered Nurse (RN) somewhere on another floor, but her patient load was even bigger than mine. I just had to cope. Which I did in a muddled stressed out kind of way.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Health Care, or non-care as I call it, is a profit driven industry, and as long as it remains profit driven, staff and patients will suffer.

Source: [The truth behind aged care - one nurses perspective](http://www.pc.gov.au/inquiries/completed/aged-care/submissions/sub101.pdf) Productivity Commission website Submission 101 (2010) <http://www.pc.gov.au/inquiries/completed/aged-care/submissions/sub101.pdf>

"They're waiting longer and longer for help - either in nursing home beds or at home - that just isn't there. This situation is unacceptable in a country as advanced and as wealthy as Australia."

Source: [Aged-care reform needed urgently: report AAP](http://www.smh.com.au/breaking-news-national/agedcare-reform-needed-urgently-report-20100915-15b8v.html), 15 Sep 2010 <http://www.smh.com.au/breaking-news-national/agedcare-reform-needed-urgently-report-20100915-15b8v.html>

2011

The aged today are largely cared for by untrained staff, with supervision from a Registered or Enrolled nurse. The role of the Registered Nurse is onerous where they could be responsible for up to and more than 60 residents in a shift.

Despite regulation and inspections by the Department of Health and Ageing, we are continuing to hear of mistreatment of the aged in Residential Aged care Facilities, which shows that not much has changed in the history of the sector.

Source: [Aged care and untrained staff](http://www.latrobe.edu.au/news/articles/2011/opinion/aged-care-and-untrained-staff) - Dr Jean Booth, La Trobe University 18 Oct 2011 <http://www.latrobe.edu.au/news/articles/2011/opinion/aged-care-and-untrained-staff>

2012

Consumers had serious concerns about the quality of services provided within residential aged care facilities including concerns about staffing, use of restraints, inappropriate environments, and reduced mobility due to lack of opportunity for physical activity ..."

Source: *Letter from Glen Rees to Lunda O'Grady about the findings of their report Consumer Engagement in the Aged Care Reform Process* 2012

2014

They said they would shower her every second day but it was more like once a week. She smelled so bad sometimes I nearly vomited

Source: [Anger at quality of Canberra nursing home food, hygiene](http://www.canberratimes.com.au/act-news/anger-at-quality-of-canberra-nursing-home-food-hygiene-20140913-10g5ir.html) - Canberra Times, 13 Sep 2014 <http://www.canberratimes.com.au/act-news/anger-at-quality-of-canberra-nursing-home-food-hygiene-20140913-10g5ir.html>

"... I have a close relative in a FPCCompanyG facility and my observation on regular, monthly visits over the past 3 years on the statement "the business had grown by offering premium services, optimising government funding entitlements and delivering efficiencies." is a load of rubbish.

The service is definitely not "premium" because the "efficiencies" have been gained by being constantly short of essential items such as catheters and continence pads, by serving boring, repetitive, low quality food and by never having sufficient staff.

Floating on the stock market will surely exacerbate these problems as shareholders wring their profits from the poor old buggers warehoused and waiting to die.

Source: [Response to Second aged care provider prepares to float on ASX](http://www.australianageingagenda.com.au/2014/09/24/regist-float-asx/#comment-4426) - Australian Ageing Agenda (24 Sep 2014) <http://www.australianageingagenda.com.au/2014/09/24/regist-float-asx/#comment-4426>

More staff would help: Congratulations to FPCCompanyG Healthcare on making a profit on their first day of trading ("IPOs look good for aged-care providers", 8/10/2014). Let's hope it spends some of the huge profits on the care of their residents. Perhaps it could increase staff numbers or even introduce a better ratio of carers to clients in all their facilities?

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

In the facility my mother resides in, residents would benefit from the employment of more registered nurses and more training for carers. The lovely private dining rooms (never used) and many elaborate flower arrangements are of little benefit to residents who are immobile and cannot leave their rooms.

Source: *Letter to The Age*, 9 Oct 2014

2015

At another Bundaberg aged care facility, carers were told to turn incontinence aids around so the "wet" bit went to the back. That ensured "maximum fill".

Aged care is a harsh environment to live and to work in. People want profit.

The current ratio of care is also geared to minimal cost.

At one facility where I worked, we had wound care kits that were essentially tackle boxes with some normal saline, cotton gauze and bandages. For complex wounds, we were told "it's basic bush nursing" and we had to do what we could with what we had.

- - - would rather jump off a bridge than get old in this country. I have seen it all. Don't tell me to make a complaint, I am still trying to pay off my home.

Source: *Comment - Nurses letter: Aged care more about business than care care - Central Queensland News*, 19 Feb 2015 <http://www.cqnews.com.au/news/letter-aged-care-business/2548406/>

I worked as an agency worker for many years and the things i saw in nursing homes will haunt me forever

Source: *COMMENT ON Frontline workers can help clients achieve adequate food intake Australian Ageing Agenda* 23 Aug 2015 <http://www.australianageingagenda.com.au/2015/08/20/frontline-workers-can-help-clients-achieve-adequate-food-intake/>

CWA (Country Women's Association) members from around Tasmania approached nursing homes in their areas and asked about their staffing levels, about the services they had for respite care as well as for people suffering from dementia and Alzheimer's.

Ms Young said the situation in some aged care facilities was alarming.

"Some of the ratios for staff and residents was quite alarming," she said.

Source: *Tasmanian CWA alarmed by shortages in staff, specialised services in nursing homes ABC News*, 7 Sep 2015 <http://www.abc.net.au/news/2015-09-07/tasmanian-cwa-alarmed-by-staff-shortages-in-nursing-homes/6756608>

I have seen appalling behaviour from staff but am called a troublemaker when I try to stand up for decent care.

Source: *Heaven help residents 5th letter to The Age* 14 November 2015 <http://bit.ly/1RMhQEi>

Ms Sxxxxxx said she thought none of the residents "received the care they paid for" and that she would not put a relative into the aged care facility.

She said she had complained to her management about understaffing, describing it as "unsafe" but was told there would be no change.

Source: *Hobart 85yo nursing home resident died with head stuck between bed and pole: inquest ABC News* 14 December 2015 <http://www.abc.net.au/news/2015-12-14/hobart-85yo-nursing-home-resident-died-with-head-stuck-in-bed/7025908>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

2016

I put my parents in a nursing home and ended up regretting it. I hope my children don't do the same to me.

Having been complicit in urging my own elderly parents to leave the family home of 50 years and enter a "lifestyle" facility touted as "safe, sanitary and supervised", I have, since they passed away, regretted this decision.

Source: *Dear kids, don't ever shove me in an old people's home* Sydney Morning Herald 25 March 2016
<http://www.smh.com.au/comment/instructions-for-our-children-to-let-their-parents-stay-at-home-to-the-end-20160324-gnq4b1.html>

See also:

- [Palmerston nursing home cuts jam rations and staffing hours to save money](http://www.ntnews.com.au/news/northern-territory/palmerston-nursing-home-cuts-jam-rations-and-staffing-hours-to-save-money/story-fnk0b1zt-1227469530239) NT News Aug 4, 2015 <http://www.ntnews.com.au/news/northern-territory/palmerston-nursing-home-cuts-jam-rations-and-staffing-hours-to-save-money/story-fnk0b1zt-1227469530239>
- [Aged care staff overwhelmed](http://neoskopos.com/news/en/Aged-care-staff-overwhelmed) neoskopos.com Aug 20, 2015
<http://neoskopos.com/news/en/Aged-care-staff-overwhelmed>

A systemic problem that must be confronted: It is clear that these are not isolated instances and that they have never been. They are red flags pointing to systemic problems that are leading to market failure. Elderly citizens are being harmed instead of cared for. Because we don't collect information we don't know just how often this is happening or how bad it is but it is clear that it is happening far too often in a system that is not working.

We stress that it is not that people are not motivated and are not trying. It is that when they succeed in providing good care this is in spite of the system and not because of it. To do so they have to resist strong pressures in the system. We are not criticising individuals but are exposing a system that is not working and trying to explain why it is not working.

The indirect evidence from other vulnerable markets and from data collected in countries that actually do collect it is compelling. If we are different then there is no evidence of this.

N. Vulnerable markets – the wider context

One of our failings is to take activities out of their wider context and deal with them as if they were isolated and not part of a wider problem. Aged care is only one of a multitude of vulnerable sectors where the free market has failed. Both vulnerable customers and vulnerable employees have been exploited in the pursuit of profits and not infrequently harmed.

When one company obtains a competitive advantage by exploiting vulnerabilities in the system, whether these be regulatory loopholes, customers or employees, others must follow in order to remain competitive. That is how the market works and this sort of innovation is harmful. It is usually cloaked in words that conceal this.

Wall Street and the international banking industry have provided many examples over the years. Citigroup's conduct and the more recent foreign exchange scandal involving multiple banks are examples.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

In health and aged care in the USA there are multiple examples where the system has been exploited and vulnerable customers have been harmed. Thousands of children were needlessly hospitalised and harmed as multiple corporations mistreated them providing vast quantities of unnecessary “treatment” for often non-existent psychiatric conditions. In another instance hundreds of patients had unnecessary major heart surgery.

Corporations charged the poor uninsured exorbitant fees then pursued them mercilessly for payments. Poorly paying Medicaid nursing home residents were discharged back to their families so that they could be replaced by those who paid higher rates. In each of these examples the businessmen involved believed that what they were doing was legitimate and claimed that they were providing a needed service.

In Australia there have been multiple problems in our banks. The financial planning scandals have engulfed multiple banks as well as other financial bodies advising vulnerable citizens. Conduct is highly infective and rapidly spreads across the industry once one company is infected. It also migrates across sectors within companies. The insurance industry has also been infected. It has been exposed in the Commonwealth Bank, the worst offender in the financial scandals. It is likely that competing insurers will already have adopted similar practices in order to compete.

The jobs industry and vocational training have both been the subject of major scandals. Large numbers of people seeking assistance were exploited for profit and not helped. The Commonwealth who funded these sectors were defrauded but did little in response. Level III and IV aged care nursing assistants were among those who were defrauded and given substandard training – so substandard that they posed a risk and their certificates had to be withdrawn.

Employees, particularly migrant workers and international students have been exploited and misused in trucking, in the food industry and by stores, particularly the franchised 7-Eleven stores.

Examples of failed markets

Whenever money can be made out of vulnerable people some will find a way of doing that and justifying this conduct to themselves. It is only when exploitation is so bad that the law is broken that the matters are exposed and prosecuted. It may be many years before this happens.

- [The Collusion and Price Fixing Scandal Mayne Nickless 1970s to 1994](#) Corporate Medicine web material A price fixing collusion scandal in trucking that destroyed and undermined smaller competitors pushing up prices for consumers of all transported products. This went on unchecked for 20 years. After this, trucking was no longer profitable. Mayne turned to health care. It became Australia's largest health care company until put out of business by doctors in 2002/3 because of unacceptable but not illegal business practices.
http://www.bmartin.cc/dissent/documents/health/mayne_collusion.html

Wall Street and international banks:

- [Citigroup](#) Corporate Medicine web material Jan 2004 - an example of how large Wall street banks and financiers exploited the vulnerability of the system and of the citizens they claimed to serve. Many lost their life savings. They had no difficulty in helping international tyrants and criminals to launder money. http://www.bmartin.cc/dissent/documents/health/access_citi.html
- [Four Banks Plead Guilty To Foreign Exchange Collusion, UBS Pleads Guilty To Wire Fraud](#) Forbes.com, 20 May 2015 - a recent scandal
<http://www.forbes.com/sites/antoinegara/2015/05/20/four-banks-plead-guilty-to-foreign-exchange-collusion-ubs-pleads-guilty-to-wire-fraud/>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Banks in Australia:

- [Heads roll at NAB over foreign exchange scandal](http://www.smh.com.au/articles/2004/03/12/1078594547046.html) - Sydney Morning Herald, 12 Mar 2004
- [Regulator's report pans NAB](http://www.abc.net.au/7.30/content/2004/s1073040.htm) - ABC 7.30 Report, 24 Mar 2004
- [COVER UP - Reserve Bank companies paying bribes](http://www.abc.net.au/4corners/stories/2013/09/30/3857148.htm) - ABC Four Corners, 30 Sep 2013
- [NAB bid to settle late fees class action](http://www.abc.net.au/am/content/2014/s4126624.htm) - ABC AM, 12 Nov 2014

Financial advice

- [Collapse of financial planner was 'inevitable'](http://www.smh.com.au/business/collapse-of-financial-planner-was-inevitable-20100527-whtv.html) - The Sydney Morning Herald, 28 May 2010 (Storm Financial)
- [Storm Financial collapse: Court approves \\$17m Bank of Queensland payout to victims](http://www.abc.net.au/news/2014-12-17/final-approval-given-for-boq-to-pay-out-17m/5972822) - ABC News, 17 Dec 2014
- [Banking Bad](http://www.abc.net.au/4corners/stories/2014/05/05/3995954.htm) - ABC Four Corners, 5 May 2014 - Commonwealth Bank profit at all cost
- [Macquarie Group to compensate potentially thousands of customers caught up in financial advice scandal](http://www.abc.net.au/news/2014-08-15/macquarie-group-to-compensate-potentially-thousands-of-customers/5673382) - ABC News, 15 Aug 2014
- [The response to the Commonwealth financial planning scandal shows banks really are above the law](http://www.smh.com.au/business/comment-and-analysis/the-response-to-the-commonwealth-financial-planning-scandal-shows-banks-really-are-above-the-law-20141026-11c13d.html) - Sydney Morning Herald, 26 Oct 2014
- [Bad financial advice costs NAB millions in compensation to customers](http://www.abc.net.au/am/content/2015/s4184456.htm) - ABC am, 21 Feb 2015
- [Senate committee grills big bank bosses over financial planning scandals](http://www.abc.net.au/pm/content/2015/s4220863.htm) - ABC pm, 21 Apr 2015
- [Calls for royal commission into financial planners grow louder](http://www.abc.net.au/am/content/2015/s4185010.htm) - ABC am, 23 Feb 2015
- [ANZ to pay \\$30 million compensation in latest financial planning scandal](http://www.abc.net.au/pm/content/2015/s4217830.htm) - ABC pm, 16 Apr 2015
- [Westpac joins bank rivals hit by financial advice scandal](http://www.theaustralian.com.au/business/financial-services/westpac-joins-bank-rivals-hit-by-financial-advice-scandal/story-fn91wd6x-1227334256539) - The Australian, 4 May 2015

Insurance

- [Money For Nothing](http://www.abc.net.au/4corners/stories/2016/03/07/4417757.htm) Four Corners 7 March 2016 CBA unfairly denying claims
- [CommInsure: Who's who in the Commonwealth Bank's life insurance scandal?](http://www.abc.net.au/news/2016-03-07/comminsure-scandal-whos-who-four-corners/7226576) ABC News 8 march 2016
- [ASIC to investigate CBA's life insurance arm](http://www.afr.com/business/asic-to-investigate-cbas-life-insurance-arm-20160305-gnbmox) Australian Financial Review 6 Mar 2016
- [Call for regulation of insurance investigators after claims of bullying, spying and intimidation](#) Claim that Metlife intimidate a claimant, 7.30 report 18 March 2016

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

<http://www.abc.net.au/news/2016-03-17/insurance-investigators-accused-of-bullying-and-intimidation/7255262>

Failed government funded markets



The unemployed:

- [The Jobs Game](http://www.abc.net.au/4corners/stories/2015/02/23/4183437.htm) - Exploiting the unemployed, ABC's Four Corners, 23 Feb 2015
- [Government recovers over \\$41 million worth of false claims after 'rotting' of Job Services- ABC News](http://www.abc.net.au/news/2015-02-23/government-recovers-millions-after-rotting-of-jobs-scheme/6193022), 23 Feb 2015



Vocational Training including for aged care:

- When 'qualified' is no guarantee of competence – Aged care workers undertrained - The Australian, 6 Sep 2014
- The rise and fall of Vocation Australian - Financial Review, 1 Nov 2014
- [Vocation shares slump after returning to trade](http://www.abc.net.au/news/2015-02-23/vocation-shares-slump-after-returning-to-trade/6223424) - ABC News, 25 Feb 2015
- [Vocation, embattled education and skills trainer, posts \\$273m first-half loss](http://www.abc.net.au/news/2015-03-02/vocation-contract-losses-drive-273m-loss/6274092) - ABC News, 2 Mar 2015
- [Vocational training leader faces allegations raised by concerned former staff](http://www.abc.net.au/7.30/content/2015/s4190647.htm) - ABC 7.30 Report, 3 Mar 2015
- [Evocca College under investigation by the Australian Skills Quality Authority after reports of low graduation rates](http://www.abc.net.au/news/2015-03-03/evocca-college-under-investigation-by-asqa/6277894) - ABC News, 3 Mar 2015
- [The capture of public wealth by for-profit VET providers at the 31st Annual Federal Conference of the Australian Education Union](https://www.youtube.com/watch?v=xVC_DCPUtYM&feature=youtu.be), 9 Mar 2015
- [Dodgy training providers face fines upwards of \\$100,000 under VET crackdown](http://www.news.com.au/national/dodgy-training-providers-face-fines-upwards-of-100000-under-vet-crackdown/story-fncynjr2-1227287975046) News.com, 2 Apr 2015 (*There is a videoclip on this News.com web page about Vocation Ltd*)
- [Hundreds of Vocation private training college graduates forced to hand back qualifications](http://www.abc.net.au/news/2015-04-22/private-training-college-graduates-stripped-of-qualifications/6412318) - ABC News, 22 Apr 2015
- [Vocation to tear up 1100 student qualifications including first aid, aged care](http://www.smh.com.au/business/vocation-to-tear-up-1100-student-qualifications-including-first-aid-aged-care-20150518-gh4bd8.html) - Sydney Morning Herald, 18 May 2015
- [Vocational education: how the shonks and shysters took control](http://www.smh.com.au/national/vocational-education-how-the-shonks-and-shysters-took-control-20150924-gjujt5.html) - Sydney Morning Herald, 26 Sep 2015

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Vulnerable groups exploited

i The poor:

- [A Lender of Last Resort](http://www.abc.net.au/4corners/stories/2014/04/07/3977771.htm) - targeting people in financial difficulty - ABC Four Corners, 7 Apr 2014
- [Game of Loans](http://www.abc.net.au/4corners/stories/2015/03/30/4205225.htm) Exploiting the vulnerably poor - ABC Four Corners, 30 Mar 2015

i Gambling addicted and the young:

- [Online betting explosion sees companies targeting vulnerable punters](http://www.abc.net.au/news/2015-09-10/online-betting-explosion-sees-companies-targeting/6766628) - ABC News, 10 Sep 2015

i Vulnerable employees

- [This Trucking Life](http://www.abc.net.au/4corners/stories/2014/02/03/3934918.htm) - - Exploiting truck drivers and endangering the public - ABC Four Corners, 3 Feb 2013
- [Slaving away: The dirty secrets behind Australia's fresh food](http://www.abc.net.au/4corners/stories/2015/05/04/4227055.htm) - Exploiting vulnerable migrant workers - ABC Four Corners, 4 May 2015
- [Migrant workers afraid to speak up over workplace exploitation](http://www.abc.net.au/local/stories/2015/06/22/4259567.htm?site=newengland) - ABC New England NW, 22 Jun 2015
- [7-Eleven: The Price of Convenience](http://www.abc.net.au/4corners/stories/2015/08/30/4301164.htm) - Exploiting overseas students - ABC Four Corners, 31 Aug 2015

i Failed market in Healthcare in the USA

Health care in the USA is a particularly good example of market failure. We have so much information because one of ACC's members was involved in the effort to keep large US health care multinationals out of Australia, collected information from multiple contacts in the USA and was a whistle blower in regard to one of them. While the material is a few years old it is very revealing of the way free markets operate in vulnerable sectors and of how the market works.

The medical profession in the USA were not forewarned and when politicians imposed a market system they did not have the independence that the Australian doctors were granted under our constitution. They were trapped by the system. Australian doctors used the power they had as effective customers to exert the community control referred to by Lindorff in one of the quotes below.

A book by the architect of the strategies that disempowered US doctors is revealing of how this happened.

p5 Medicine's high priests, the doctors, have said once too often, and with an arrogance we no longer accept, that only they know what to prescribe, where to treat us, and how they should be paid, Corporations, unions -----etc. ----- have had it with the profligacy's of the American health care industry.

p10 Our best hope to change the health care system rests in an awakened, competitive world of business purchasers demanding and bargaining for high-quality care from a variety of providers at much lower cost.

p26 The gospel lesson is that hard-negotiating buyers, who treat health care like any other products they purchase, can change the system -- and we are only beginning to realize the benefits of competition.

P31 The experience has led me to develop an enormous respect for the genius of American business and a competitive private sector.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

p64 Far more troubling than the size of the health care industry is its inefficiency and lack of discipline, which have provided a breeding ground for waste and abuse.

P95 We're coming to appreciate that, like most Americans, doctors will respond to financial incentives far more readily than they will accept regulation. We can change the economic bait for our physicians. In a time shorter than most Americans think possible, that will change the way doctors practice medicine.

Source: [Joseph Califano and the Market Revolution](http://www.bmartin.cc/dissent/documents/health/califano.html) Corporate Medicine web site 2004 (Quotes from "America's Health Care Revolution: Who lives? Who dies? Who pays? Joseph A. Califano, Jr -1986) <http://www.bmartin.cc/dissent/documents/health/califano.html>

There is no doubt that the US system was excessively commercial and that changes were needed but a belief system that saw market failure as due to the fact that it was over-regulated and not a free market was not the solution required. What Califano and his supporters did was impose free markets in the face of cogent arguments by doctors like Professor Arnold Relman who argued long and hard against this.

When Dave Lindorff wrote a book warning of the likely consequences of the growing corporatisation of health care few took his predictions seriously. It is interesting that at that time he was already stressing the importance of community control in constraining the market in vulnerable sectors. While more choice was claimed to be a benefit there was actually less choice.

Lindorff stresses that the lack of community control is a hallmark of the for-profit hospital chains and that the likely result is less interest in community service and the loss of high-cost, low-profit services.

As competition for patients increases, the trend seems to be away from freedom of choice for consumers.

Source: [Marketplace Medicine: The rise of the for-profit hospital chains](http://www.nejm.org/doi/full/10.1056/NEJM199209103271124) Dave Lindorff, 1992 Book Review, New England Journal of Medicine <http://www.nejm.org/doi/full/10.1056/NEJM199209103271124>

By the time the book was published in 1992 the massive December 1991 scandal, the first of many, was already unfolding. By 2004, 12 years later another book by award winning New York Times journalists revealed that Lindorff's predictions had vastly underestimated what would happen. The authors did not come up with a solution to the problem.

It was clear that Australia had been lucky to escape but this was only because some citizens were tracking the US companies and state regulators accepted their evidence and did not look the other way.

Page 7: As long as Washington remains wedded to the illusion that market-based medicine will cure health care's woes, tens of billions of dollars a year will continue to vanish in waste, inefficiency, fraud, and in profits to companies that make money by denying care.

Page 34: But the driving force behind these and other factors is one that politicians refuse to recognise. Washington's blind obsession with market-based health care, the notion that competition is always good and can never have a bad result.

The glaring exception to the theory is health care. The very core principle of the market system, that companies will compete by selling more products to everyone, is actually the last thing the health care system needs.

Source: Quotes from "Critical Condition: How Health Care in America Became Big Business & Bad Medicine" by Barlett & Steele Nov 2004 (DoubleDay) used in [The Financial institutions in Health Care](http://www.bmartin.cc/dissent/documents/health/financiers.html) Corporate Medicine web site 2004 <http://www.bmartin.cc/dissent/documents/health/financiers.html>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

The book "Coronary" by Klaidman describes how a focus on business objectives led to hundreds of unnecessary major heart operations being done. A review of the book goes to the heart of the problem with a free market health system and applies equally to aged care.

Klaidman never forgets that, at its core, this is a tale of a company that seems to have "cracked under pressure from Wall Street to continually boost profits". Americans are at the mercy, ultimately, of a giant medical machine. Parts have our best interests at heart. Other parts will grind our bones to make their bread.

Source: *Coronary, cuts to heart of Tenet scandal - The Redding Record, 21 Jan 2007*

Extensive information about market failure in some of the sectors of the free market US health system can be found at these links:

An introduction and overview

- [The Health Care Marketplace in the USA](http://www.bmartin.cc/dissent/documents/health/corporate_overview.html) Corporate Medicine web site Overview with multiple links. http://www.bmartin.cc/dissent/documents/health/corporate_overview.html

Psychiatry and substance abuse (hospitalisation and misuse of children)

- [The Impact Of Financial Pressures On Clinical Care Lessons From Corporate Medicine](http://www.bmartin.cc/dissent/documents/health/corpmmed.html) Corporate Medicine web site (written in 1996) <http://www.bmartin.cc/dissent/documents/health/corpmmed.html>

Cardiac Surgery (unnecessary major heart surgery)

- [Tenet Healthcare's Redding Hospital Unnecessary Cardiac Procedures Part I](http://www.bmartin.cc/dissent/documents/health/tenet_redding.html) 2003, [Part II](http://www.bmartin.cc/dissent/documents/health/tenet_admin.html) 2007 [Australian connection](http://www.bmartin.cc/dissent/documents/health/tenet_redding_fallout.html) 2007 [fallout](http://www.bmartin.cc/dissent/documents/health/tenet_redding_fallout.html) 2007 Corporate Medicine web site
http://www.bmartin.cc/dissent/documents/health/tenet_redding.html
http://www.bmartin.cc/dissent/documents/health/tenet_admin.html
http://www.bmartin.cc/dissent/documents/health/tenet_redding_fallout.html

Price gouging vulnerable uninsured patients

- [Tenet Healthcare --- Price Gouging](http://www.bmartin.cc/dissent/documents/health/tenet_med_fraud.html) Corporate Medicine web site written 2003 updated 2007
- [HCA 2004 to 2007 ---- Price Gouging](http://www.bmartin.cc/dissent/documents/health/tenet_med_fraud.html) Corporate Medicine web site Oct 2007

Exploiting vulnerabilities in the system

- [Tenet Healthcare Fraud and the Outlier plus Stop-Loss scandal](http://www.bmartin.cc/dissent/documents/health/tenet_med_fraud.html) 2003 Corpmedinfo.com, updated to 2007 http://www.bmartin.cc/dissent/documents/health/tenet_med_fraud.html

Laboratories

- [OPERATION LABSCAM](http://www.bmartin.cc/dissent/documents/health/labscam.html) Corporate Medicine web site
<http://www.bmartin.cc/dissent/documents/health/labscam.html>

Accounting fraud

- [HEALTHSOUTH](http://www.bmartin.cc/dissent/documents/health/access_healthsouth.html) Corporate Medicine web site
http://www.bmartin.cc/dissent/documents/health/access_healthsouth.html

Renal Dialysis

- [Renal Dialysis in the USA and Australia](http://www.bmartin.cc/dissent/documents/health/dialysis.html) Corporate Medicine web site
<http://www.bmartin.cc/dissent/documents/health/dialysis.html>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Cost cutting harming patients

- [Unsafe Theatres: Dangerous Heart Surgery in Florida](http://www.bmartin.cc/dissent/documents/health/tenet_palmbeachgdn.html) Corporate Medicine web site
- [The Saga of Failed Sterilizers](http://www.bmartin.cc/dissent/documents/health/tenet_sterilisers.html) Corporate Medicine web site

The consequence for not-for-profits in the USA; The consequences for not-for-profit companies that supplied better care but who were unable to compete is revealed in many reports. Those who gobbled up not-for-profit hospitals were known as PACMEN. In aged care Sun Healthcare expanded very rapidly in the same way and was sometimes called a PACMAN.

Statements made by not for profit executives who found themselves crushed between the giants Columbia/HCA and Tenet Healthcare (previously NME) reflect their predicament as like being caught between "two 800 pound gorillas" and "I am like a flea between two elephants."

Source: *El Paso on health care frontier. The San Diego Union Tribune 21 June 1996*

- - society thinks of the medical system not in terms of keeping patients well or helping them get better but instead as a fiercely competitive business in which survivors concentrate on making tremendous amounts of money. ----- The goal isn't health care any more - the goal has become the care of the stockholder interest."

- - - the for-profit chains have the minds of piranha fish and the hearts of Doberman pinschers. Columbia/HCA was "the PACMAN" of the industry.

Source: *Representative Fortney Pete Stark Congressional Records 6 Jan 1997 -- 13 feb 1997 and 10 Sept 1997*

The PACMAN – the aggressive acquisition of not-for-profit operators.

- [Part 4 : Columbia /HCA's Business Practices—Acquisition practices](http://www.bmartin.cc/dissent/documents/health/columb_business.html) Corporate Medicine web site
- [Tenet Healthcare PACMAN activities: Mergers and takeovers of not for profit hospitals](http://www.bmartin.cc/dissent/documents/health/tenet_pacman.html) Corporate Medicine web site

O. Drawing obvious conclusions

That Australian aged care corporations are making vast profits and doing well on the share market while the frail seniors whom they have been paid to care for are neglected should not surprise us. This is what has happened in countries with similar free market aged care systems.

The submissions made by staff and by the unions raises the possibility that it is not only the frail seniors who are being exploited. Cost cutting under the guise of efficiency is being used to justify the exploitation of the vulnerability and dedication of staff. Many of these are from foreign countries and are unable to defend themselves. Untrained staff are being pressed into nursing procedures for which they are not trained or qualified.

At the same time government is energetically pursuing opportunities to address our trade deficit by providing aged care services to other countries in Asia and elsewhere. To do so they will need large corporate chains that can compete globally against chains in the USA and Europe.

Under the *Living Longer Living Better* program big corporations are being lavishly funded and citizens are being asked to pay more so that we can create bigger and more aggressively competitive companies which will make more money out of the unsuspecting Chinese. The money is not going to

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

care and clearly it was never intended that it should. Instead the workforce we need to care for our own vulnerable seniors is being exploited and underfunded.

Government seems to be behaving no differently to the many corporations listed in the many examples above. They are exploiting the vulnerable seniors and the vulnerable staff and they were deliberately lying to us when they marketed the “Living Longer Living Better program” to us.

Worst still it is likely that they believe in what they are doing, think the deception is justified and that it is the right thing to do. They see nothing wrong with it. This is how the market thinks and government is now being run like a competitive business.

These are matters that the committee will hopefully explore. The confidential Bentley industry report in 2014 leaked by Crikey.com showed that profits jumped 159% in a year. The 2015 Bentley's report leaked by the Sydney Morning Herald shows that profitability has increased a further 40% at the same time that funds spent on care have decreased 10%. The figures provided about the average hours of care suggest that by international standards these are grossly inadequate. These figures when set against what staff and families are saying speak for themselves.

Examples:

Reforms to the aged-care industry have made running those businesses more profitable. But at what cost to the people they're supposed to be caring for?

The survey covers 179 nursing homes around the country, breaking down average income and expenses line-by-line, and shows that **net profits jumped 159% last year**, from \$4.14 to \$10.71 per resident per day.

The rising profitability came as major aged-care players like Japara, Regius and Estia listed successfully on the stock exchange last year - - - - . The investment boom comes amid widespread concerns about the standard of care being provided to the vulnerable residents of nursing homes - -

A chart showed the long-term decline in the time spent on care by registered nurses, which fell from 5.9 hours per patient per fortnight in 2004, comprising 17% of total care staff hours, to 5.2 hours or 13% of total hours in 2014, while the amount of time spent by personal care assistants jumped from 11.4 hours in 2004 comprising 31% of total care staff hours, to 16.8 hours or 39% of total hours in 2014.

Source: *Profits rise, quality called into question in aged-care industry* Crikey 15 Jan 2015
<http://www.crikey.com.au/2015/01/15/profits-rise-quality-called-into-question-in-aged-care-industry/>

The profits of aged care homes surged 40 per cent in the past year as operators cut hours of nursing care while claiming higher payments from the federal government for servicing more of the most frail patients.

Yet while nursing homes report they are looking after more needy residents, the time spent caring for them declined by 7 per cent over the past year.

Source: *Nursing home profits soar as patient care declines* Sydney Morning Herald 1 Jan 2016 (The leaked Bentley report) <http://www.smh.com.au/federal-politics/political-news/nursing-home-profits-soar-as-patient-care-declines-20151224-glupug.html>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

P. Sacrificing our seniors

Over the last 2 years Australia has been negotiating international trade deals in service industries in Asia and elsewhere and it is clear that government plans to address our balance of payment problems by capitalising on the financial opportunities in the global health and aged care markets in Asia, particularly in China.

To do so Australia must develop large corporate chains to compete with US and other aged care multinationals. The leaked Bentleys report suggests that the additional funds directed into aged care under the *Living Longer Living Better* program were intended not to improve aged care but to increase profits and fund consolidation of the sector into large corporate chains able to compete internationally.

The evidence shows that to compete successfully chains like this operate larger less suitable but more profitable nursing homes, use fewer and less skilled staff and provide worse care. Is the government sacrificing the well being of its seniors and exploiting the commitment of the dedicated staff who provide care in order to pursue global financial objectives?

We ask the committee to consider the impact of these developments on staffing and on standards of care in Australia.

Were Australians deliberately misled by the *Living Longer Living Better* program? Is the government compromising the care of the elderly in order to improve our balance of payment? What are the ethics and long-term consequences for Australia's reputation in selling other countries solutions to their aged care problems that all available evidence indicates is not in the best interests of the frail elderly?

Its interesting that the seniors organisation that worked closely with government made the announcement on Channel 9:

Examples:

Announcing Trade deal with China

Ixxx Yxxxxx (COTA): "... What Australia offers is firstly how to maintain a high level of standards in aged care and secondly how to go about it in a variety of different ways rather than just one model ..."

Source: *Aged care breakthrough following China trade - 6pm Nine News, 12 Nov 2014*

The Business Council of Australia is among those keen to emphasise how important unlocking such a vast new market for services could be for this country. President Catherine Livingstone says the Chinese middle class will want the same valued-added service in professional services, finance, health, education and aged care that already underpins around 80 per cent of the Australian economy.

Source: *Chinese dreams, Australian reality with free trade deal - Australian Financial Review, 17 Jun 2015*

Leaked negotiations from a key trade deal show radical plans to deregulate services in Australia, including aged care and childcare

Highly sensitive details of the little-known but extremely important Trade in Services Agreement (TiSA) agreement, published tonight by WikiLeaks, reveal that the Australian government is at the forefront of a push for extensive international financial deregulation.

Dr Patricia Ranald, co-ordinator of the Australian Fair Trade and Investment Network, said WikiLeaks' publication of the most recent negotiation texts confirmed the Australian government supports proposals that will "further encourage more commercialisation and foreign investment in

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

all services, including human services such as aged care and childcare, and will limit the ability of future governments to regulate these services in the public interest. This will encourage the domination of giant global services companies in areas like childcare and aged care at the expense of public, local and not-for-profit services.”

The latest documents show Australian support for stronger limits on government regulation of licensing, qualifications and technical standards in all services, including human services such as childcare and aged care.

“This could limit future government regulation to improve staff qualifications, staffing levels and quality of care in those services,” Dr Ranald said.

Source: [WikiLeaks Exclusive: Secret core text from Trade in Services Agreement negotiations](http://www.thesaturdaypaper.com.au/news/politics/2015/07/01/wikileaks-exclusive-secret-core-text-trade-services-agreement-negotiations) *The Saturday paper* 1 July 2015 <http://www.thesaturdaypaper.com.au/news/politics/2015/07/01/wikileaks-exclusive-secret-core-text-trade-services-agreement-negotiations>

She (*Minister for health*) said the (*funding*) scheme had helped ensure Australia's aged care sector was one of the best in the world, making it the envy of other countries and therefore potentially an export earner.

Source: [MYEFO budget update: Big fines aim to stop fraud in aged care](http://www.smh.com.au/federal-politics/political-news/myefo-budget-update-big-fines-aim-to-stop-fraud-in-aged-care-20151215-glo77u.html) *Sydney Morning Herald* 15 Dec 2015 <http://www.smh.com.au/federal-politics/political-news/myefo-budget-update-big-fines-aim-to-stop-fraud-in-aged-care-20151215-glo77u.html>

One of the reasons that independent parliamentarians are so valuable and why the effort to get rid of them in the senate is so worrying is that industry is not usually in their pockets. While we may worry about their suitability they are among the few who can tell it like it is without favour or fear.

Robert Brown MLC (Shooters, Fishers and Farmers Party)

It is also worth noting that three major nursing homes providers floated their companies on the Australian Securities Exchange in anticipation of or soon after the passing of this bill. They are AAA Healthcare, BBB Aged Care, and CCC Health Limited. CCC Health Limited posted profit guidance for the 2016 financial year of over 25 per cent, up from the previous year of 20 per cent.

These three companies' share prices have risen since 2015 by a figure of between 20 per cent and 40 per cent, despite the current economic headwinds plaguing other industries. It seems there has never been a more exciting time to churn a profit from old people in nursing homes. That applies to aged care and to care for disabled persons. I understand that these three companies were contacted by the committee chair for comment. Their absence from the list of submissions speaks volumes.

Jan Barham MLC (Greens) The “*Living Longer Living Better*” reforms have led to a greater commercialisation of the sector and aged care providers are reportedly making record profits yet spending less on skilled care.

Source: [Parliamentary speakers on RN24/7 in NSW nursing homes](http://www.nswnma.asn.au/parliamentary-speakers-on-rn247-in-nsw-nursing-homes/) *NSW Nurses & Midwives Association* 14th March 2016 <http://www.nswnma.asn.au/parliamentary-speakers-on-rn247-in-nsw-nursing-homes/>

The industry complains that there are not enough nurses and families complain about cultural difficulties for the residents. Reports suggest that the companies are employing more vulnerable and cheaper foreigners in preference to Australian trained nurses. Either that or the working conditions are so poor that Australian graduates would rather be unemployed.

EMMA ALBERICI: Unions are blaming a rise in the number of foreign nurses being brought into the country on 457 working visas.

JOHN STEWART: About 8,000 nurses graduate from Australian universities each year. But this year up to 3,000 cannot find work.

Source: [Nurses can't find jobs](http://www.abc.net.au/lateline/content/2014/s4011254.htm) *ABC Lateline* 23 May 2014 <http://www.abc.net.au/lateline/content/2014/s4011254.htm>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

As many as 33 per cent of nurses and midwives who finished their training last year were jobless and many were employed as casuals and wanted more hours, said the report.

Only 15 per cent of graduate respondents had found secure employment in the industry.

- - - raising concerns about employers accessing about 3000 migrant workers a year while graduates were knocked back.

More than 280 graduates in South Australia and 400 in Western Australia had also not found work, said the union's analysis, while just 600 out of 2500 graduates from Queensland were employed in the industry.

Source: [Nurse graduates 'locked out' of workforce as migrants get jobs](http://www.smh.com.au/business/workplace-relations/nurse-graduates-locked-out-of-workforce-as-migrants-get-jobs-20150607-ghi9c8.html) *Sydney Morning Herald*, 7 Jun 2015
<http://www.smh.com.au/business/workplace-relations/nurse-graduates-locked-out-of-workforce-as-migrants-get-jobs-20150607-ghi9c8.html>

3. Providers of care

Providers broadly fall into two broad categories. There are those whose reason for providing services in the sector is in order to make a profit. The pressures generated for putting profit before care will vary depending on whether these are private for-profit, mutual for-profit, market listed for profit or private equity. The greater the competitive pressures the more the problems are likely to be.

Then there are those who entered the sector for humanitarian reasons in order to serve the community and their traditional motivation is to stretch available resources for maximum benefit. They find that they now have to operate within a marketplace where they are competing with aggressively competitive for-profits. They are at a disadvantage and if they are unable to do so successfully they will go under or else be acquired by a for-profit chain. Facilities operated by government, community and religious organisations are not-for-profit or non-profit.

A. For-profit providers

Corporate interests lost a legal challenge to restrictions that protected residents and limited their profitability in aged care in 1987. These groups then lobbied and funded the election of the government that won office in 1996 and introduced the market changes they wanted in 1997.

They got what they wanted to the extent that one corporate leader even claimed that he had written most of the new legislation. It was written for the industry and gave them what they wanted. Some thought he was rewarded for his efforts with aged care beds. With the industry writing the laws we can understand why the regulatory oversight was so toothless.

This free market policy was then marketed to the public which was less than enchanted. After abandoning some of their plans the government survived the backlash. The corporate mogul who had written the legislation was so disgusted by the governments abandonment of some of his policies, that he resigned from the party.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Examples:

... The High Court yesterday unanimously upheld the power of the Commonwealth Government to totally regulate private nursing homes through its provision of sickness and hospital benefits. The decision emphasises the extent to which the Commonwealth's constitutional power to make various social benefits payments allows it to regulate private industries otherwise beyond its constitutional reach ..."

Source: *Commonwealth Power Upheld On Nursing Homes Regulation Australian Financial Review March 11, 1987*

Moran (*owner of Australia's largest nursing home chain*) made ample use of his political connections. A donor to the Liberal Party, he boasted that he had played a leading role in designing nursing home policy.

Source: *Philanthropist who shaped elderly care The Sydney Morning Herald, 3 Dec 2011*

... Ms Pike also released documents detailing how the majority of the private nursing homes had gone to the Moran Healthcare Group. - - - - Moran, who Ms Pike told Parliament yesterday had been a long-time Liberal Party member up to 1998.

As part of that deal, Ms Pike said, the Moran group received top-up funding of \$1 million a year for 10 years.

Source: *Secret Deals Sink Nursing Home Sell-off - Australian Financial Review, 5 Apr 2000*

The consequences of the new model for care: The new market was based on free market principles and was unsuited to the sector. The model was based on managerial principles in which decisions were made at board level and then passed down through a tier of managers who implemented these and whose careers depended on their success in doing this. It was a top down system in which decisions were made a long way from the coalface by people who often had little grasp of the consequences of their decisions. A belief in competitiveness and efficiency underpinned decisions and commercial considerations dominated.

This is a model that is unsuited to a sector where people are vulnerable. Management is shielded from the real world in the nursing homes so is in a position to rationalise and justify their decisions. We think that like many aged care companies in the USA these entrepreneurs believed that a free marketplace was the solution to the problems in aged care. Like those in the USA they continue to believe in the face of evidence and public anger and are unable to accept that they were not providing good care. The response is to deny, dismiss evidence, attack critics and minimise events as isolated instances rather than representative examples. Families and friends who complain are seen as trouble makers and banned from visiting their relative.

Without an effective customer these companies prospered and were very successful giving their leaders stature and credibility in the marketplace. At the heart of their success is efficiency in containing costs. Staff salaries comprise up to 70% of costs in nursing homes that provide good care and the only place where costs can be reduced significantly is staffing. Success can and often does depend on a willingness to cut the costs of staffing. There are strong pressures to ignore the consequences.

In a situation like this where there are strong competitive pressures, most of us will find ways of justifying what we do and rationalising adverse events. We may see what is happening but we don't acknowledge it. We will use words to deny allegations and evidence and in order to claim the very opposite of what is alleged. In aged care failures are often explained away by claiming that the system is not adequately funded. The leaked Bentley report is only one that shows quite clearly that this is not so.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Examples:

People who complain are seen as troublemakers and nursing homes can deny them access to their relatives.

- [Loved ones 'locked out' of nursing homes](http://www.abc.net.au/lateline/content/2013/s3764436.htm) ABC Lateline, 21 May 2013
<http://www.abc.net.au/lateline/content/2013/s3764436.htm>
- [Aged care residents and families 'bullied by facility staff' after complaining about treatment, advocacy group says problem widespread](http://www.abc.net.au/news/2015-09-28/aged-care-bullying-a-widespread-problem-says-advocate-group/6808234) ABC News, 28 Sep 2015
<http://www.abc.net.au/news/2015-09-28/aged-care-bullying-a-widespread-problem-says-advocate-group/6808234>
- Nursing home 'banned me from seeing mum' The Australian, 28 Aug 2015
- [Woman denied access to dying mother condemns 'monstrous display of evil' by nursing homes](http://www.abc.net.au/news/2015-10-08/woman-says-nursing-homes-denied-her-access-to-dying-mum/6838448) ABC 7.30 Report, 8 Oct 2015
<http://www.abc.net.au/news/2015-10-08/woman-says-nursing-homes-denied-her-access-to-dying-mum/6838448>

The response to criticism and evidence is to lay claim to excellence and when failures are exposed to claim that they are exceptions. The deniers never produce real data because their isn't any.

But Mr Howard says the majority of elderly Australians are well cared for in the nation's aged care facilities.

"I think it's important that people who have relatives in nursing homes in Australia be reassured that ... 99.9 per cent of them are operated in a caring, sensitive way and people are properly looked after."

Source: *Nursing home rape allegations appalling and tragic: ABC radio PM February 21, 2006*

"But I (Santo Santoro Minister for aged care) just wish to assure the Australian public ... that the vast majority of residents receive the best possible care by people who are caring, dedicated to looking after the welfare of our elderly in nursing homes.

"The vast majority of providers provide excellent, excellent care for nursing home residents."

Source: *Elderly people in nursing homes safe, Santoro Australian Associated Press General News February 21, 2006*

But Mr Howard and his new Aged Care Minister, Santo Santoro, insisted that the overwhelming majority of homes were free of abuse - despite a damning Senate report last June that criticised the complaints scheme for discouraging complainants.

HSU state secretary Jeff Jackson said bullying, intimidation and abuse of aged care workers meant that carers were often terrified of reporting.

Source: *New laws loom on nursing home rape The Age February 22, 2006*

In response to these claims to excellence:

DR MERRILYN WALTON, UNIVERSITY OF SYDNEY: These complaints, certainly in my 20 years experience of looking at complaints about nursing homes, have been repetitive and it doesn't seem to me that we make the improvements, so I don't think it's a one-off thing, no.

DANA ROBERTSON: She says it seems in the last 10 years little has changed.

Source: *Politicians respond to abuse allegations LATELINE ABC TV February 21, 2006*

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

In response to more allegations:

--- the central point - Australia has one of the most robust accreditation and complaints systems anywhere in the world.

The aged-care industry is highly regulated and accountable. The introduction of legislation to deal with elder abuse, our 44 accreditation standards, police checking and new complaints system demonstrate it isn't regulation or accreditation that is the failure in aged care.

Source: Gxxx Mxxx, chief executive, Aged and Community Care Victoria, Melbourne responding to criticism in [Vulnerable elderly deserve better care](#) - The Age - Opinion, 19 Nov 2007

Gerard Mansour, the chief executive of the peak body representing providers, Leading Aged Services Australia, denied that quality was declining.

Overall the industry has an outstanding quality record as measured by our independent accreditation scheme, under one of the most robust quality systems anywhere in the world," he said.

Source: [Aged-care assaults increase](#) - Sydney Morning Herald, 30 Nov 2012 <http://bit.ly/25txfNV>

For true believers, when all else fails, you blame the media for misrepresenting and then do the same in reply. In market-think it's all about image - and not about looking to see what is happening:

Leading Age Services Victoria chief Trevor Carr yesterday said the sector had "undersold ourselves" for 30 years and now needed to raise its policy and political profile.

This is one of Australia's fastest growing industries because we have an ageing population.

Source: [Aged care facing a mighty challenge](#) - The Border Mail 23 Feb 2015
<http://www.bordermail.com.au/story/2900264/aged-care-facing-a-mighty-challenge/>

She (*Minister for health*) said the scheme had helped ensure Australia's aged care sector was one of the best in the world, making it the envy of other countries and therefore potentially an export earner.

Source: [MYEFO budget update: Big fines aim to stop fraud in aged care](#) Sydney Morning Herald 15 Dec 2015
<http://www.smh.com.au/federal-politics/political-news/myefo-budget-update-big-fines-aim-to-stop-fraud-in-aged-care-20151215-glo77u.html>

But when politicians need illusions for commercial purposes, they have no hesitation in creating them. In a free market there is a whole commercial sector based on the sale of positive illusions and it is quite legitimate to do so. Success in every market sector depends on your ability to do so. Both Tenet Healthcare and Columbia/HCA, the giant US health care companies that defrauded citizens and government insurers made no secret of the fact that marketing was their most important activity and the basis for their success. Tenet for instance fanned community anxiety by advertisements and then sent agents out into the community to persuade them into hospital.

The Australian aged care system is a global benchmark for best practice, thanks to strong government funding, a robust framework for accreditation, quality and regulation, and a long history of cooperation between government, service providers and the community.

All these capabilities are supported by a world-leading legislative and quality framework, as well as substantial investment in research.

Australia has developed a sophisticated system to deliver multiple levels of care to its ageing population and is investing strongly in resources and initiatives to support older people, carers and families.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Industry Strengths: The aged care system in Australia is one of the most thoroughly regulated in the world and is used as a model by many other countries.

Source: [Aged Care Setting the Global Standard for care Australia Unlimited](#). The Austrade web site

Ixxx Yxxxxx (COTA): "... What Australia offers is firstly how to maintain a high level of standards in aged care and secondly how to go about it in a variety of different ways rather than just one model ..."

Source: *Aged care breakthrough following China trade - 6pm Nine News, 12 Nov 2014*

Provider organisations seldom miss an opportunity to call for more funding and one way is to exonerate themselves by blaming failures on the government

Our dedicated workforce is increasingly pushed to breaking point because of the failure of government to provide funding that meets our rapidly rising costs.

In Victoria alone more than 45,000 of our elderly live in residential aged care. While their families recognise the industry's commitment to a high quality of care, they know our elderly deserve more. It is here that neither Labor nor the Coalition has any tangible plans.

The next elected government must provide much needed additional funding and address our impending workforce recruitment and retention crisis. They ignore these issues at their peril. We have to prepare for our future, today.

Source: Gxxxx Mxxxx, chief executive, Aged and Community Care Victoria, Melbourne responding to criticism in [Vulnerable elderly deserve better care](#) - The Age - Opinion, 19 Nov 2007

"Every lead-up to the Federal Budget is the same for aged care providers: an opportunity to cry poor", said CPSA Policy Coordinator Paul Versteeg in response to a call by the National Aged Care Alliance for urgent action in the Sydney area.

Source: [Pensioners slam misleading numbers put out today by aged care sector](#) CPSA, 4 Apr 2012
<http://www.cpsa.org.au/aged-care/aged-care-media-releases/501--pensioners-slam-misleading-numbers-put-out-today-by-aged-care-sector>

ACSA CEO Adjunct Professor Jxxx Kxxxx expressed his deep concern and apologies to the residents and families involved.

He stressed the need for a substantial injection of funding to deliver high quality care and urged the government to move quickly to introduce its Living Longer, Living Better reforms, cutting the 10-year timeframe by half.

Source: [Aged Care Under Fire](#) Australian Ageing Agenda, 16 Jul 2013
<http://www.australianageingagenda.com.au/2013/07/16/aged-care-under-fire/>

"Industry responses to Lateline's coverage have largely fallen into two categories: claims that aged care is overregulated (a surprising summation to make given that most of the appalling cases presented occurred in fully accredited nursing homes) and that the aged care system needs more funding from Government.

Source: [Aged care operators making a mint out of poor care](#) CPSA, 22 Jul 2013
<http://cpsa.org.au/aged-care/aged-care-media-releases/824-aged-care-operators-making-a-mint-out-of-poor-care>

"Aged care is oversubscribed, undersupplied and understaffed and to add salt to injury it seems our ageing Australia is poorly represented," Mr Carr said.

Mr Carr said consecutive federal budgets have ripped \$700 million from aged care providers while leaving the cost burden of care on the industry and our seniors.

Source: *Is the gov out of touch with aged care? Hospital and Aged Care, 6 Jul 2015*

Leading Age Services Australia (LASA) says the real costs of caring for older Australians are three times what the government believes and funding calculations need an urgent review.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

"Consumer co-payments should not be an opportunity for government to starve the industry or shirk its responsibility to fund aged care properly," Rxxd said.

Source: [Real aged care costs are three times estimates](http://www.transformingthenation.com.au/2015/07/real-aged-care-costs-are-three-times-estimates/) *Transforming the Nation's Healthcare*, 7 Jul 2015
<http://www.transformingthenation.com.au/2015/07/real-aged-care-costs-are-three-times-estimates/>

The member for Indi told Federal Parliament last week that changes to the Aged Care Act that came into place last year are robbing the service of much needed funding.

The multi-purpose service is now 18 per cent worse off when it comes to subsidies for high care patients and has lost almost two-thirds of its funding from the previous model for low care residents.

Source: [Health funding threat](http://alpineobserver.com.au/2015/09/23/health-funding-threat/) *Alpine Observer*, 23 Sep 2015
<http://alpineobserver.com.au/2015/09/23/health-funding-threat/>

But if you look at what is happening in the marketplace we see that this is all about creating an illusion by cloaking the sector in words that deceive. There is plenty of money in the system. Its simply that it is not going to care.

Since 2008, the healthcare sector has been one of the strongest performing sectors in the Australian economy, a source of growth and strong job creation.

Source: *Insights: Healthcare, Aged Care and Retirement Care - National Australia Bank*, Dec 2012

The first report by the Aged Care Financing Authority (ACFA) turns this second assertion on its head by reporting that average profit margins for aged care facilities are 12 per cent.

"This shows that aged care is a very healthy industry financially, while the health and well-being of residents is being left at the wayside by some providers.

Source: [Aged care operators making a mint out of poor care](http://cpsa.org.au/aged-care/aged-care-media-releases/824-aged-care-operators-making-a-mint-out-of-poor-care) *CPSA*, 22 Jul 2013
<http://cpsa.org.au/aged-care/aged-care-media-releases/824-aged-care-operators-making-a-mint-out-of-poor-care>

The share market bonanza and the rapid consolidation that is occurring as well as the Bentley reports of 1014 and 2015 referred to earlier clearly show just how well the sector is doing..

Reports from the marketplace tell us where the money is going and why its not going to staffing and care. This is clearly what the neoliberal government wants and needs if it wants to make money out of China and other countries.

.. Australian aged care is about to become big business as investors rush for a slice of a rapidly growing \$10 billion industry, seeking funding to buy rivals and build nursing homes in one of the fastest-aging societies in the Asia-Pacific

In less than a year Australia will likely have its first three listings of aged-care operators - worth some \$3 billion between them - as private equity owners take advantage of a roaring IPO market and investor appetite for steady returns from a sector supported by reliable government rebates.

After dramatic consolidations in other health sectors like non-government hospitals, radiology and pathology in recent years, aged care is now poised for a similar shakeup

Source: [Australia's booming aged-care sector set for unprecedented shakeup](http://www.mynextfone.co.uk/deals/australian-aged-care-is-about-to-become-big-business-h27247.html), *Sydney (Reuters)* 17th Sept 2014
<http://www.mynextfone.co.uk/deals/australian-aged-care-is-about-to-become-big-business-h27247.html>

AUSTRALIA'S aged care sector offers investors a defensive earnings stream, with government funding reforms further raising potential returns, Deutsche Bank says.

"The growth outlook is supported by rising wealth levels amongst the elderly which will provide opportunities as demand for higher end services expand," - -(analysts) - -.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

"It also supports the funding outlook given individuals will inevitably be required to fund an increasing share of the cost," they said, noting the July 2014 funding reforms provided a material opportunity for providers.

Source: *Aged care the place to be, says Deutsche Bank - The Australian*, 28 Jan 2015

.The number of facilities being sold is more than I have seen in 20 years in aged care," he (director of Ansell Strategic) told Australian Ageing Agenda. "We have sold just under 30 nursing homes in the last 12 months, and I would say I have probably sold six or seven in the 15 years before that ..."

... The re-entry of private equity firms, new foreign investors and the continued expansion of existing operators are three factors driving the biggest wave of investment activity and consolidation in the aged care sector's history, according to a financial expert"

Source: [Investor appetite builds in aged care](http://www.australianageingagenda.com.au/2014/10/03/investor-appetite-builds-aged-care/) *Australian Ageing Agenda*, 3 Oct 2014
<http://www.australianageingagenda.com.au/2014/10/03/investor-appetite-builds-aged-care/>

The sector, previously occupied by smaller and family owned aged care and retirement village operators, is increasingly dominated by large corporate players which are poised to grow even bigger.

More than \$2.5 billion has been invested in public floats in the past 14 months as the operators in the aged care sector become major listed players.

Source: [Age of change as big players expand in aged care sector](http://www.smh.com.au/business/property/age-of-change-as-big-players-expand-in-aged-care-sector-20150623-ghvf36.html) *Sydney Morning Herald*, 24 June 2015
<http://www.smh.com.au/business/property/age-of-change-as-big-players-expand-in-aged-care-sector-20150623-ghvf36.html>

FPCCompanyG Healthcare Ltd (ASX: xxx) listed its shares on the Australian Securities Exchange in October last year and has generated fantastic returns for initial shareholders in the time since.

In addition, FPCCompanyG is on track to beat its prospectus forecast for revenue and earnings

Source: [Why FPCCompanyH Healthcare Ltd should be on your watch list](https://www.fool.com.au/2015/07/10/why-regis-healthcare-ltd-should-be-on-your-watch-list/), *The Motley Fool* July 10, 2015
<https://www.fool.com.au/2015/07/10/why-regis-healthcare-ltd-should-be-on-your-watch-list/>

Aged-care provider FPCCompanyI Health on Wednesday beat a string of financial targets outlined at the time of its listing on the ASX, while marking a new milestone in its strategy of making acquisitions.

Source: [FPCCompanyI initial profit beats target](http://www.businessspectator.com.au/news/2015/8/12/health-and-pharmaceuticals/estia-initial-profit-beats-target) *Business Spectator*, 12 Aug 2015
<http://www.businessspectator.com.au/news/2015/8/12/health-and-pharmaceuticals/estia-initial-profit-beats-target>

Servicing the rich and not the poor: There is much more money to be made from those who can afford to pay big bonds and be enticed to pay for more extra services – selecting from an enticing selection on offer. But the community has a responsibility to help those in need and not to pander to those who are able to look after themselves. By turning the whole sector into a market driven by profit we have shifted the focus away from those in need to those who can afford luxury. Available funds are being spent on luxury hotel style services and not on the majority of battlers. This is what our companies will be offering the wealthy Chinese because this is where the money to fix our balance of payments will come from.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

For Profit:

MMM of the fractured MMM family is going it alone to develop a series of ultra-luxury retirement facilities staffed by former employees of high-end resorts such as Queensland's six-star Hayman Island.

"We are looking at baby boomers who want lifestyle and community engagement until the day they die: that is going to be the new model for us," - - - aged care complex in Sydney's Vaucluse with prices up to \$3.5 million.

International health economist Paul Gross backs the MMMs in saying the amount of money looking for a home in the health sector is "unbelievable"

He said appetite for investment in aged care is heating up. "The market is on the move, it is responding to signals and the budget will do something to create new types of care ... These new innovations suggest that the government has realised it needed to do something."

Source: *MMM building ultra-luxury aged care facilities* *The Australian*, 22 May 2015

Not-for-profits too

The operators of a new 160-bed aged care centre in Griffith hope to attract the higher end of the grey market with an on-site cinema, children's playground, day spa and some higher quality services and rooms.

At the centre, which opens on Saturday, residents can choose normal services or pay more for extras such as bigger rooms, fine dining with chef-prepared meals, and Foxtel. NFPCompanyN says this extra "premium range of lifestyle choices" would make the facility more like a hotel.

Source: [*New aged-care centre treats residents to the finer things in life*](#) *Canberra Times* 1 May 2015

What about the battlers

Much is being made of opportunities for retirement living and aged care due to our ageing population. For those who retire with a healthy balance sheet there are increasing choices within a fast evolving 'for profit' industry. But the reality for a majority will be ongoing dependence on the aged pension and insufficient government or non-profit places to accommodate them.

This is a market segment no one seems to be talking about. - - - But the numbers are such that many non-profit groups won't have the financial resources to meet this growing demand as many are struggling with financing existing operations, let alone expansion. - - - there will be increasingly fewer taxpayers of working age relative to the number of aged dependents, - - .

Keep that in mind when you next look at those marketing images of healthy looking silver haired retirees with perfect skin, wearing pastel coloured cashmere jumpers and big smiles (and their own teeth), holding hands as they walk on the beach... they are far from reality for the majority.

Source: [*Old, poor and lonely: the other side of the ageing story*](#) *The Pulse* 13 Oct 2015

Culture: These practices and the focus on profits rather than care have a profound impact on the culture in the facilities, on the nature of the workplace, on the psychological behaviour of staff and so on the atmosphere in which care is provided. In 1995 Stuart Rees warned of the manner in which a corporate language would be used to change the culture of our community and its institutions. In service industries there is no escaping the conflict between corporate objectives and the costs of services and this creates considerable stress for the staff providing care.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Submission number 207 from the Macquarie University Aged Care Researcher Network addresses the psychological stresses and the consequences for staff.

An important paper by Karl Nunkoosing and Mark Haydon-Laurelut examines the different types of cultures that develop in nursing homes and the consequences of these for residents, for staff and for the preservation of links with the community – links that are important for the quality of life of residents. These are all issues that deserve careful consideration by your committee.

Examples:

"Associated with this promotion and educational expansion is a corporate language and accompanying attitudes. These are the outcomes of preoccupation with management as the panacea for governments and organisations."

Source: Stuart Rees in *"The Fraud and the Fiction"* from *"The Human Costs of Managerialism"* Pluto Press 1995 page 16

- **The Relational Basis of Empowerment** by Karl Nunkoosing and Mark Haydon-Laurelut
Published in the "The Need for Roots" series. The Centre for Social Welfare Reform
<http://www.centreforwelfarereform.org/library/type/pdfs/the-relational-basis-of-empowerment.html>

Positive marketing: Markets are in the business of creating positive images in order to sell their wares. Problems are seen in terms of images and perceptions and too often are addressed by trying to create positive images. These serve to obscure the real situation.

The nurses and families making submissions to your inquiry describe the serious problems that are causing large numbers to vacate the sector and warn off the starry eyed. Many of them reveal the sort of culture in the facilities that they work in. Instead of confronting the root causes of the problems, their staff describe and addressing them the industry is trying to create a false image. What could be more destructive of trust and ultimately result in more disillusionment.

Examples:

"Aged care providers and peak bodies have called for a national positive image campaign to promote the industry's career opportunities to possible workers ranging from school students to medical and health professionals"

Source: *We're hiring! Aged care needs 'positive image' campaign to attract workers*, Australian Ageing Agenda, 11 March 2016: <http://bit.ly/1SsE7ny>

Sadly, systems that are built on illusions and obtain their objectives by illusion have very real consequences for some and in this case it is not only the frail residents but the starry eyed and naïve school leavers who can very soon find themselves trapped in the sort of facilities the submissions describe and then suffering from the psychological consequences of the stress and disillusionment.

We are not suggesting that for-profits have no place in aged care nor that the market should not operate in the sector. We are challenging the free market ideology that has let us down so badly. We are suggesting that we need a marketplace that is tailored specifically to the needs of the aged care sector and takes account of its vulnerability. It needs to be a market where the playing field is steeply sloped in favour of the customers to compensate for their vulnerability.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

What we are advocating is a very different sort of market that will require a very different corporate structure to be successful. This will be one where decision-making will be driven by what is happening in the nursing homes and the community. Decisions will be by discussions at the bottom rather than the top and will be made in cooperation with the community. We are suggesting a system where civil society takes control and the providers will have to work closely with community organisations in the provision of care. Success will depend, not on commercial decisions and on what the market is doing but on the service provided to the community and their satisfaction with the way the company has worked with them.

We are advocating changes that will change the social forces in the sector so that restructuring and adapting to forces that encourage people to do the right thing will be essential for survival.

B. Not-for-profit providers

Not-for-profit providers now find themselves under threat. When both the health and aged care systems in the USA consolidated there was a feeding frenzy as aggressive for profits built corporate empires by acquiring or “partnering” with not-for-profits and then restructuring them. This was called PACMAN activity and the companies that prospered in this way were called PACMEN.

Not-for-profits in Australia are now faced with a similar strongly competitive consolidating market and they have to adapt or die. They are frightened and have been steadily hiring marketplace managers and bringing in marketplace consultants. By changing and adopting marketplace thinking they become more successful and survive.

While the for-profits are focused on growths not-for-profits seem to have spent the largesse in the *Living Longer Living Better* reforms in attending conferences where lawyers, and a variety of business consultants offer their services to help them manage finances, restructure and impress. They are offered services to help them market their services positively and run impressive tours for prospective families. Further funds are then spent on employing these consultants. Its all about positive images and feeling good.

Many would once have found these now legitimate and desirable practices embarrassing and have thought them deceptive. They are now seen as essential for success. Employees including managers are existential beings and seek to assume a positive identity. They are even more likely to identify with these images than the community who are more likely to be suspicious. In doing so staff are under pressure to ignore and look past the deficiencies in care in front of them.

Clearly confidence based on sound knowledge, evidence, good practice and good care is desirable and important in providing services. The risk of glowing advertorials is that the managers and even staff come to believe in the glowing images that are presented. An escape into a world of illusions has real consequences and these are for the frail elderly receiving care.

Examples:

The ACSA forum in Victoria on October 30th was a series of talks by people from the business, the marketing, the legal and the government sectors. It was designed to help not-for-profit members adapt to the new free market system, learn how to cope with the increased complexity and make the necessary changes to their culture, their operations, their thinking and the way they operated so that they could survive in this very different context.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Perusal of the papers suggests an extremely complex system with considerable additional business management costs. It looks remarkably similar to the UK system for home care, a system that has failed because of its complexity, community disengagement and because the costs of the system have been so much greater there has been less money available for care. People are getting less care than before.

Speakers ACSA Victoria Forum - 30 October 2015

- **NFP provider** - Opening address & industry update Nick Mersiades, Catholic Health Australia - Towards a consumer-driven market-based aged care system
(*About choice, empowered consumers, budgets, financial performance, capital investment*)
- **Bank** - Richard Grayson & David Cannington, ANZ Economic update - current economic conditions and the impact on the aged care sector
- **ACFA** - Lynda O'Grady, Aged Care Financing Authority ACFA - current insights and plans (*A market driven industry, "reform" timeline, government perspective*)
- **Financial planner, sales and financial trainer** - Linda Murray, Murray Strategic Aged Care Uncovered (about dealing with customers, sales, answering phone inquiries, tours of facilities , cultural change ---"Every Business requires sales to be a business, yet many don't have a dedicated process that is aimed at delivering to the business exactly what it needs")
- **Marketing and sales to seniors** - - Kerry Lehman, BrandPartners The art of marketing and selling aged care services (*All about identifying your potential customers and marketing to them*)
- **Financial benchmarking and management consulting** - David Sinclair, StewartBrown HCP & CHSP - financial considerations for providers (*Financial implications of reforms for Home Care and Commonwealth Home Support Programs, About the new funding programs and financial implications*)
- **Business consultants to government and industry** - Heath Shonhan, Bentleys Chartered Accountants Financial reporting & sustainability (*Financial reporting, analytics & sustainability. Thinking ahead. Finances and staffing*)
- **Lawyers** - Anita Courtney Russell Kennedy Lawyers Aged care reforms, the tricky bits: 3rd party RADs, guarantees, caveats and additional services (*RADS, DAPs, finances, risk management, guarantees*)
- **Victoria Dept. Human Services** - - Maree Cameron, Vic Dept Health & Human Services Putting a cost on quality - who pays? (*About quality, indicators, benefits of choice and funding but no evidence for impact on quality.*)

Source: [ACSA Victoria Forum Papers](#) - 30 October 2015 ACSA Victoria website (the program)

There is another forum that is to look at the same issues

The key issues emerging in the transition to the new Commonwealth Home Support Program and what the home care reforms mean for not-for-profit aged care providers are some of the key topics to be debated at an upcoming industry event.

Source: [Market survival of NFPs in focus at industry forum](http://www.australianageingagenda.com.au/2015/11/05/market-survival-of-nfps-in-focus-at-industry-forum/) Australian Ageing Agenda 5 November 2015
<http://www.australianageingagenda.com.au/2015/11/05/market-survival-of-nfps-in-focus-at-industry-forum/>

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Presentations at a meeting of young business consultants in smart suits warned not-for-profit providers about the new problems they faced and the need to change if they wanted to survive. You might be forgiven if you thought they were trying to frighten their audience into using their services. Some of them did and the community did not like it.

No organisation wants to be faced with closure, and no community wants to lose its local aged care facility, but that's exactly where many aged care providers could find themselves if they fail to adapt, leading experts tell AAA.

"The bank would have foreclosed. Someone would have probably bought it, but at a fire sale, the directors may have been liable and it would have ended in tears and disaster after 56 years of non-profit institution," Goldsworthy (*Australian Strategic Services*) says.

It is a widely-held sentiment. Patrick Herd, principal consultant with Community Business Australia, says as the sector is being manoeuvred toward a freer market dominated by the consumer, operators need to adjust their ways to remain viable.

Source: [Experts advise on viability and sustainability](#) - *Australian Ageing Agenda*, 18 Sep 2014

Stuart Rees in his criticism of what was happening in 1995 told us about this.

" - - - - the all inclusive claims of "culture management" with its emphasis on changing the culture of an organisation by paying attention to language, symbolism and ritual (Peters and Waterman 1982)"

Source: Stuart Rees in "The Fraud and the Fiction" from "The Human Costs of Managerialism" Pluto Press 1995 page 17

Compartmentalisation: One of the consequences of all this is the recruitment of economists and managers from the marketplace, attendance at business conferences and the employment of credible marketplace consultants. This results in cultural change and adaptation. The financial success when costs are cut and the better survival in the market produces a change in the patterns of thinking with a progressive conversion towards marketplace thinking and practices. There are major conflicts between these two essentially incompatible paradigms.

Situations like this are often managed by a process called 'compartmentalisation'. Each paradigm is put into a separate compartment and the contradictions are not confronted. Whichever paradigm is needed at any particular time is used.

Divisions have opened up among not-for-profits with some still believing that a mission of care and service is important and will give them a competitive advantage. Others believe that there is now no difference between for-profits and not-for profits and that they operate the same way and have identical interests. They consider the not-for-profit paradigm as obsolete. Feeling is so strong that the term mastodon has been used. Instead of being critical of the for-profit sector some leaders in the not-for-profit sector have become strongly supportive of the marketplace and of the for-profit ethic. A few remain critical and others realise that the not for profit providers themselves are being hollowed out and are looking for ways of preventing this.

Of necessity not-for-profits have emulated for-profits and there has been a change in culture. No studies have been done to see the impact of these changes on staffing or care but if they are copying for-profits then it is likely that this will have the same negative impact on care. We think it likely that this has contributed to a general deterioration in the care provided in the sector.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Management would have attended business meetings and worked with consultants. They would have converted to these new ideas more rapidly. Most not-for profit organisations developed as humanitarian community and religious organisations. Employees with these motives would have been attracted to them and they would have been strongly motivated by an ethic of care. They are likely to be less easily converted and more alienated and disillusioned when managerial practices and staff cutting impact on care. They might be motivated to speak out more readily but this is speculation.

Examples:

Even the CEO of ACSA, who has in the past worked for and with the for-profit sector has been upbeat about the market bonanza.

"Even without doing your homework on a particular acquisition it looks pretty enticing," said Adjunct Professor John G. Kelly, chief executive officer of Aged and Community Services Australia, which represents 900 church and charity-based operators.

Source: [Australia's booming aged-care sector set for unprecedented shakeup](http://www.reuters.com/article/us-regis-ipo-australia-idUSKBN0HC03N20140917). Sydney (Reuters) 17th Sept 2014 <http://www.reuters.com/article/us-regis-ipo-australia-idUSKBN0HC03N20140917>

Conflicting views among not-for-profit operators have appeared at a number of meetings.

No difference

The difference between the 'not-for-profit' and 'for-profit' aged and community care sectors is mostly ideological rather than real, as there are just as many discrepancies among organisations with the same kind of profit motive, as there are between sectors.

Chair of the session, Cynthia Payne from [SummitCare](#), commented that market segmentation, which drives organisations to meet different consumer needs, will determine how a provider is defined - not their type of profit motive.

Reservations

"What [services] disappear out of the organisation so that it becomes sustainable and competitive?"

"Does the mission become a struggle or do the other parts [of the business] become a struggle?"

Director of aged care services for [Catholic Health Australia \(CHA\)](#), Richard Gray, concurred but commented that achieving the right mix between commercialisation and mission is difficult for most NFPs.

Source: [Profit is not a dirty word](http://www.australianageingagenda.com.au/2012/03/29/profit-is-not-a-dirty-word) - Australian Ageing Agenda, 29 Mar 2012
<http://www.australianageingagenda.com.au/2012/03/29/profit-is-not-a-dirty-word>

There was a strong push among many not-for-profits to discontinue the not-for-profit body ACSA and for them to join the industry body LASA so that there was only one body representing all providers. The divisions and the differences in the way different not-for-profits thought became clear. In the end LASA became a body that claimed to represent both and ACSA persisted as the not-for-profit organisation. It is not clear how many not-for-profits belong to only LASA or to both.

For one body

"I cannot subscribe to the notion of dividing the industry on the basis of for-profit and not-for-profit organisations. What we need is one powerful, empowered industry association that has some real clout. We are all in the same operating environment and the only real difference is our tax arrangement."

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

To keep ACSA

Will 'for profits' care for the poor and the disadvantaged? Perhaps...but only if it is consistent with that commercial Purpose or if they are required legislatively to do so. Will they focus on the hard cases? Perhaps, but only if it is aligned with that commercial Purpose. Are the 'for profit' social welfare agencies known for Innovation? Not especially because they start with a financial rather than a faith-based or social model.

Source: [Providers want united voice: survey](http://www.agedcareinsite.com.au/2010/08/providers-want-united-voice-survey/) - Comments section (*Aged Care Insight*, 26 Jul 2010)
<http://www.agedcareinsite.com.au/2010/08/providers-want-united-voice-survey/>

"While we share many things in common with 'for-profit' providers, charities and other not-for-profit providers are driven by purpose, not profit. Their motivation is entirely different – or should be – from the for profit providers."

Source: [Single voice a misguided ideal](http://www.australianageingagenda.com.au/2012/04/03/single-voice-a-misguided-ideal/) (*Australian Ageing Agenda*, 3 Apr 2012)
<http://www.australianageingagenda.com.au/2012/04/03/single-voice-a-misguided-ideal/>

We have previously quoted from a paper on Probono addressing the hollowing out of not-for-profits as a consequence of the new environment they operate in.

- BLOG: Strategies to Stop NFPs Being 'Hollowed Out' Part 1 by Government - Probono Australia, 11 Jun 2015
<http://probonoaustralia.com.au/news/2015/06/blog-strategies-to-stop-nfps-being-hollowed-out-by-government/>

Robert Kuttner who studied the health system in the USA and wrote about it described what happened there.

"A market culture and a market idiom are becoming pervasive, even among nonprofits" and " - - big nonprofits are now defensively emulating Columbia/HCA and other for profits."

Source: Kuttner R- "Columbia/HCA and the resurgence of the for-profit hospital business *New Eng J Med* 1 Aug 1996 p 362, 8 Aug 1996 p 446

Impact on the community: Not-for-profit organisations originated as humanitarian community and religious groups responding to human need. They were operated and managed by the community and the community were a part of this. They worked together and supported on another. There was no need to advertise because they knew what was happening and when things went wrong they cooperated to fix it. People worked together and with a common purpose. There was rivalry but no necessity to compete.

A community of carers has now become a community of isolated customers who are offered services by commercial enterprises who claim to be experts. They are no longer part of aged care and no longer have knowledge or confidence in themselves. They are at a disadvantage.

Aged care was once an important part of a functioning community, a place where people interacted and communicated and where the decisions they made had an impact. They fulfilled their responsibilities as citizens and as existential beings they "realised themselves" creating meanings in their lives and social identities. They felt fulfilled and valued. The loss of this opportunity to build social selves was accompanied by a loss of knowledge, a loss of status and a loss of self value. People lost interest and went elsewhere to build their lives. This is what we mean by a "hollowing out of society".

4. Unions, professional and registration organisations

The unions are on one side of the marketplace where they represent and act for workers and prevent them from being exploited. Successful markets provide employment for their members. Their primary objective is the welfare of their members. They have recently been vilified and attacked by the party representing business groups and corruption has been exposed so they are on the back foot and less able to act. Professional and registration organisations to which staff also belong have a primary responsibility to ensure standards of training, and maintain the ethical commitment of their members. When their members are unable to serve the community in an ethical and responsible manner professional organisations should act politically on behalf of their members.

5. Staff and families

Staff in aged care increasingly come from the strata of society that cannot find work elsewhere, from migrants and from people who have been recruited from other countries and then given low level training. They are often not primarily motivated by an ethic of care. Trained nurses are costly and the industry is trying to reduce costs by doing without them.

At the same time the needs of ever more frail seniors with multiple chronic diseases and people needing good palliative care are increasing as only the oldest and sickest find their way into nursing homes. It is not possible for poorly trained nurse aids stretched to the limits and the small number of trained staff to care for them successfully. Striking in nursing home is not an option because of the consequences for the vulnerable and the unions have been unable to protect them. They are vulnerable.

The medical profession successfully resisted government and industry and then put our largest hospital owner out of business when it transgressed so protecting hospital patients. They established themselves as the proxy customer for patients and prevented a repetition of what happened in the USA and is now happening in aged care. They do not have the power to act in aged care and faced by an unsatisfactory position are vacating the sector. Other professional groups have much to offer but are underrepresented in nursing homes.

Family members have lost knowledge, power and influence and civil society is no longer there to support and help them.

The nurses, the doctors and the families who need real nursing care realise what is happening but are frightened of speaking out.

Expecting government to fix the problem: Because we have been living in a welfare state we have come to look to government to solve all our problems. We have developed a cargo mentality. We expect government to look after us. In a capitalist democracy it is citizens who look after one another (the responsibility of citizenship) and they require their government to work with them in doing so.

As a community we need to realise that government is paralysed and powerless in the face of a powerful marketplace. Simply complaining is not going to result in the sort of changes that are needed. Effective government depends on an effective community that controls its excesses and insists that it does what it needs it to do.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

It's not a waste of time to speak out and tell everyone what is happening to their parents and what will happen to them as well when they are old. We are indebted to the nurses and families who tell us what is happening and the journalists who make the general public aware. But that is not nearly enough.

We need to meet and work together to rebuild civil society little by little by involving our citizens, by giving them roles in society, rebuilding their social selves and re-establishing civic responsibility and involvement in the affairs of our communities as a necessary and important part of citizenship. Those who know what is happening need to band together and start working on this.

We will need to enlist the support of politicians in rebuilding civil society but this may not be as hard as it looks. Some of them must have been listening to 21st century ideas and realised what has been happening. They started down this path before the panic set in. Australia was one of the founding participants in the global "Open Government" movement. This is a partnership between governments and civil society. It was exploring different models of participatory democracy in which citizens play a far greater part in running the country, working with government in developing policy and making decisions. This was before Australia got cold feet and jumped ship, deserting the countries it was working with. In a map on the international open government movements web site Australia stands out as one of the very few western countries that has done nothing about open government.

These matters are addressed in Appendix B of our submission to this Inquiry.

Community: We do not see civil society as a particular group of people. It is an abstraction that enables us to understand the series of roles that we all can play as citizens in our communities. It is the attitudes and thinking that we develop in these civil society roles that impacts on our other roles, make us stop and think and make us more balanced individuals. This enables us to see things from other points of view and so constrains our excesses and makes us less vulnerable to ideology.

Similarly we are all customers but we don't form groups and associations to build and share ideas about what that means, understand what is happening to us and plan ways of improving our capacity to be effective customers so that we get what we need.

The market that is selling commodities and services is highly structured and well organised. It has consolidated and there are large highly organised and powerful groups. They are all focusing on making us buy whether we need it or not. Our economy depends on our doing so! But it is no longer a level playing field for the individual customer. When it comes to services in vulnerable sectors this is a big problem.

No one representing civil society!: Politics in Australia centres around the economy and markets. One major party can be seen to represent the business community and the other the unions. All our attention is focused on the battle between them. The Greens are there for the environment and many crossbench senators represent specific groups. So who represents customers and who represents civil society, who talks about this – perhaps Nick Xenophon! Because it is not a primary concern for any of the parties it finds little place in what has become a highly competitive market in which groups compete to sell their ideas instead of debating them. There is no space for society itself to be heard.

Markets and community: We can look at markets as the engine of capitalist democracies and these democracies use markets to free them from poverty and endless labour to develop themselves. These societies create contexts where members can release their human potential and develop fulfilling lives. In doing so all of our vast and diverse human potential can be realised. Citizens can fulfil their responsibility as citizens and build social selves as well as selfish selves. This is why capitalist democracy works better than other belief systems when it is properly structured..

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Free market ideology has put the market above society. Instead of the economy and the market serving society, society has been restructured to serve the market. The market is no longer a means to an end but has become an end in itself. Instead of supporting and serving weaker sections of society it is cannibalising them. The roles that are now available to citizens are structured around the market and based on self interest. It no longer offers the wide range of possibilities that allow citizens to build social selves by fulfilling their responsibilities as contributing citizens. The stronger competitive forces the faster the treadmill turns and the more trapped we become.

Stuart Rees warned us in 1995 but no one was listening:

... The claim to moral neutrality and scientific objectivity suits an age in which economy has come to be regarded as more important than society and in which a brand of economics has claimed scientific qualities."

"In private corporations and in public sector services there are numerous examples of assumptions about the universal value of management."

Source: *"The Fraud and the Fiction"* by Stuart Rees in *"The Human Costs of Managerialism"* - Pluto Press, 1995 p 17

As indicated there is no such thing as a group of people belonging to a group called civil society. But we each build our lives by adopting multiple roles. By civil society we are talking about the breadth of opportunities and potential roles that society creates by providing a wide range of diverse contexts. These allow citizens to "actualise" their lives, build different relationships, gain knowledge about society and build experience. By filling multiple roles we build well rounded selves and come to understand our world and our place in it from multiple points of view. We are more likely to behave constructively than responsively, and to accept complexity.

Why we are so vulnerable: Ideology imposes narrow frames of understanding and causes us to respond defensively when they are challenged. Thinkers like sociologist Peter Berger and Canadian John Ralston Saul see our weakness for simple beliefs based on illusions (ideologies) as an escape from the uncertainties of an uncertain and complex world - uncertainties that cause "angst".

In a sense ideologies are a manifestation of cowardice - a lack of courage – an escape from complexity and uncertainty. Our best defence against our weakness for illusionary ideologies is a civil society that allows us to develop the broad range of understandings and points of view that help us to understand our world better and manage complexity.

A civil society is consequently a society that offers a broad range of contexts where citizens build relationships (social capital) and the multiple roles which enable them to understand their world better and deal with complexity. Managing multiple different and conflicting points of view requires courage and the wisdom to balance our many attributes and the many "truths" we see against one another. It also requires our communities to recognise and accept their responsibility as citizens and to have the courage to act responsibly in holding both politicians and market to account.

An effective civil society that supports a functioning democracy must have courage and we need to support and encourage each other so that we don't falter. We do that by developing our social selves and we do that by engaging. Multiple perspectives and a constructive reflective approach to them leads to the breadth of understanding we need to act wisely.

6. The proposed community aged care hub

It remains to give two examples where the proposed hub would have resolved issues because the community would know what was happening. Things would not be happening behind closed doors.

Example 1:

A nursing home purchased about 18 months before and run since then by a not-for-profit chain in a northern state was recently accused by an article in the Australian of being a “house of harm” where residents were harmed and where staff were frightened to speak to management for fear of losing their jobs. They thought that the directions to keep costs down came from management and management knew what was happening. This had been going on for many months. The newspaper produced leaked correspondence with the company’s lawyers and claimed that instead of reporting failures they had tried to conceal them. The company angrily denied this but a senior manager then blew the whistle and claimed that they had tried to cover this up. He was fired.

The company admitted there had been problems and blamed the local facility’s manager whom they had fired. This manager had been there when the company was purchased and the problems had been going on at least for several months. The company emphatically denied a cover up and a visit from the quality agency at that stage did not find any major problems in care.

The agency, which may well be sensitive because of accreditation’s past failures to detect problems, now visited all of the company’s facilities, found serious problems in one which it sanctioned and less serious problems in several others. There was widespread press coverage.

The company responded very angrily throughout first seeking a legal injunction against the Australian, alleging that the letters were privileged and when they lost this suing the Australian.

The company was particularly indignant that the agency had found deficiencies in its other facilities and had sanctioned one. It denied there were any deficiencies in these facilities and took the quality agency to court. The court found that the company had been unfairly treated and had not been granted natural justice. The agency was required to pay costs.

The company now claimed that it had been completely exonerated and provided excellent care. The agency attempted to remonstrate and contest this but then went silent. The company’s lawyers have since insisted that papers that had republished the allegations remove the articles from their web sites.

The problem here is that as customers and as a community we are faced by allegations and counter allegations. We don’t really know what happened here although it is clear that the agency went overboard in response to the publicity and did not follow due process or afford the company natural justice. We do not believe that reliable assessments can be based on occasional visits.

The legal issues: The law is an extremely blunt instrument and requires proof which may be difficult and can be challenged. So while a company may be exonerated it quite often does not mean that there were no problems. An even bigger problem is the impact of this on future visits by the agency. Other companies are now much more likely to challenge its decisions and it will be much more wary of sanctioning big companies.

This is what happened in the UK where one of the UK’s Quality Care Commission’s (QCC) assessors blew the whistle on the QCC’s failure to sanction multiple facilities which she had found seriously wanting. The QCC admitted this and indicated that this was because of its fear of litigation. The legal

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

process (and the threat it posed) was protecting those who provided poor care and not protecting the frail elderly. This is more likely to happen in Australia now.

The elderly and vulnerable were failed by a watchdog set up to protect them because it feared legal threats from owners of care homes, it has admitted.

The head of the Care Quality Commission (CQC) said it has too often "backed off" from making attempts to close unsafe homes and "tended not to fight back" when was legally challenged.

Source: [We failed elderly because we were too scared care home owners would sue us, watchdog admits](http://www.telegraph.co.uk/health/healthnews/11021374/We-failed-elderly-because-we-were-too-scared-care-home-owners-would-sue-us-watchdog-admits.html) - The Telegraph, 9 Aug 2014

<http://www.telegraph.co.uk/health/healthnews/11021374/We-failed-elderly-because-we-were-too-scared-care-home-owners-would-sue-us-watchdog-admits.html>

The proposed community aged care hub: If the proposed local community aged care hub was in place then provided it was functioning adequately, they would have known exactly what was happening.

1. The problems in the original nursing home would have been detected early and drawn to the attention of management.
2. The staff would have voiced their concerns confidentially to the hub if they believed senior management were complicit and not receptive.
3. The hub would have addressed the issues with management and if the situation was not addressed they would have notified the department and pressed for action.
4. The quality agencies assessment of the companies other facilities would have been based on months of regular oversight and accurate data to support any action taken.
5. If the company responded swiftly to any issues raised by the hub this would be viewed positively but if these were too frequent or not adequately addressed prospective residents would be advised and if need be steered to safer services. It would have had an economic impact and forced change.

Appendix C: Why aged care is a failed market

www.agedcarecrisis.com

Inquiry - Future of Australia's aged care sector workforce

Example 2:

A whistleblower went to a newspaper claiming staff were being reduced at the expense of care. The company claimed that this was because a new system of rostering nurses provided better care with fewer staff.

She (whistleblower) said the redundancies included nurses, personal care attendants and cleaners. - - part-time staff would also face cutbacks - - - in their hours - - . - - - The facility is in utter chaos with no cleaning staff and staff numbers dwindling.

FPCompanyF spokesman ZZZZZ said a "dedicated staffing model" was now being implemented - - - dedicated staffing involved employees committing to work at least three shifts a week with the same group of residents - - . Because of the nature of dedicated staffing - - - staff numbers need to be adjusted - - - this enhances the care that residents receive - - -. All FPCompanyF aged care residences are extremely safe and clean environments.

Source: [Concern as FPCompanyF Overton Lea in Sydenham cuts 46 jobs and scales back hours](http://www.heraldsun.com.au/leader/west/concern-as-arcare-overton-lea-in-sydenham-cuts-46-jobs-and-scales-back-hours/story-fngnvmj7-1227133175082) - Herald Sun, 25 Nov 2014
<http://www.heraldsun.com.au/leader/west/concern-as-arcare-overton-lea-in-sydenham-cuts-46-jobs-and-scales-back-hours/story-fngnvmj7-1227133175082>

This sounds like a ploy by the company to reduce staff. Familiar faces are critically important for the elderly particularly those with dementia and attention to this is a basic requirement. One wonders what they were doing before this.

More interesting though is a radio interview advertorial for another facility owned by the same company expounding the virtues of its new dedicated staffing regime for which it had recently received an award from none other than the quality agency.

This raises several questions.

1. Was the whistleblower angry at losing her job and making unfounded allegations.
2. Was the company fully staffing and providing top quality care at one of its facilities to create a display flagship so that it could use that as an excuse to reduce staff across its other facilities. (Some US health care companies did this)
3. What evidence and measures of care and of quality of life were made and who made them when assessing this innovation.
4. What was the evidence and the grounds for the award.

The proposed community aged care hub: The local hubs would have known and been involved with this in all of the company's facility's, have been collecting the data needed to assess it and supported the academics ensuring the objectivity of the study. This would have been coordinated through the hubs central committee so that everyone knew about it and the results. If it was an advance the hub would have supported its introduction across the sector and it would not be used to obtain a competitive advantage, although the company's initiative would have been acknowledged and its reputation enhanced.

7. Relevance to our proposal for aged care

This appendix contributes to the argument that to address the problems in aged care we need an effective civil society. By putting civil society in control of aged care and of the aged care marketplace we contribute to the building of civil society and so to the wider problem of which aged care is a part. In doing so we will be creating the effective customer, whose absence has caused this market to fail and whose presence has the potential to make it work.

Not only will we know exactly what the staffing situation is but we will know how many staff we need and the price in failures of care and quality of life that residents pay for understaffing. We will be introducing a powerful force in whose interests it will be to support staff and their working conditions. It will counter the pressures introduced by the imperative to cut costs in order to be more profitable and succeed in a consolidating market.

Stop Press:

Is this the long-term future for aged care in Australia? – more for-profit owners, fewer staff, neglect, abuse

New York's nursing homes have received failing grades from watchdog groups for years. Now, recent statistics and reports suggest the state's nursing homes are getting even worse as for-profit operators gain a larger share of the market and oversight agencies struggle to provide quality control.

Between 2013 and 2015, allegations of abuse and neglect climbed from 1,392 to 1,644, or about 18 percent.

It is a long documented trend. A 2009 study from the federal Government Accountability Office found that the worst nursing homes in the country tended to be run for profit.

"Nursing homes are labor intensive, so basically, they're about staffing. And the main place these companies can cut their cost is having fewer staff with wages and benefits and have less well-trained staff," including critically-important registered nurses, Harrington explained. "They cut corners on all of that. That's the main way they make their money."

In the last decade, however, for-profits bought up 20 percent of all government and nonprofit nursing homes in the state, increasing for-profit nursing home ownership to nearly 60 percent of the state's total, according to an analysis of government records by City & State.

While the majority of New York's nursing homes are now run for profit, those homes are more than twice as likely to hold the lowest federal rating (1-star) as those that are nonprofit or government run. In fact, among the state's 371 for-profit homes, 92 of them – or 1 in 4 – ranked among the state's lowest-quality facilities.

The general public often fails to understand the problem, Lee said. "Yes, people die in nursing homes because they have serious ailments and that's to be expected," Lee said. "But to see how many are being neglected to death? It's just insane. It should not be happening in our country."

Source: *As NY shifts to for-profit nursing homes, abuse and neglect complaints spike* (first of 3 articles) City & State 27 March 2016

<http://cityandstateny.com/articles/policy/healthcare/as-ny-shifts-to-for-profit-nursing-homes,-abuse-and-neglect-complaints-spike.html>