

Health Law Alert

September 2018

The Royal Commission into Aged Care – What it means to Approved Providers, their Boards and Management?

By Alison Choy Flannigan, Partner

On Sunday 16 September 2018, Prime Minister, the Hon. Scott Morrison MP announced the Commonwealth Government's decision to request the Governor General to establish a Royal Commission into the aged care sector.

The Royal Commission will primarily look at the quality of care provided in residential and home aged care to senior Australians. It will also include young Australians with disabilities living in residential aged care settings.

The detailed Terms of Reference will be determined in consultation with the community, including residents and their families and aged care providers.

The Government has stated that it is anticipated that the Royal Commission will cover:

- The quality of care provided to older Australians, and the extent of substandard care;
- The challenge of providing care to Australians with disabilities living in residential aged care, particularly younger people with disabilities;
- The challenge of supporting the increasing number of Australians suffering dementia and addressing their care needs as they age;
- The future challenges and opportunities for delivering aged care services in the context of changing demographics, including in remote, rural and regional Australia; and
- other matters that the Royal Commission considers necessary.¹

The involvement of a particular aged care provider will depend upon the terms of reference and whether or not a specific complaint against that provider will be made to the Royal Commission and investigated.

We recommend that Approved Providers:

1. review any significant and current complaints and claims; If there are any significant complaints and claims, consider resolving those complaints and claims as reasonably possible, obtaining statements and preparing position statements;

¹ <https://agedcare.health.gov.au/announcement-of-royal-commission-into-aged-care-quality-and-safety>

2. have appropriate media and social media policies and ensure that staff are aware of protocols in responding to requests from media;
3. review their insurance arrangements, including directors and officer's insurance;
4. ensure that their policies and procedures, practices and systems are up to date;
5. be aware of conflicts of interest, particularly when a particular independent medical practitioner or director is being investigated – there may be a conflict between the interests of the company and the interests of that individual;
6. draw together appropriate resources, including legal and media advice (whether internal or external); and
7. set the strategy – sometimes it may be appropriate to resist and other times to apologise and remediate.

The Commission does, under the *Royal Commissions Act 1902 (Cth)* have the power to summon a person to appear before the Commission to give evidence and/or produce documents.

Special rules apply in relation to legal professional privilege and self-incrimination.

For assistance you can contact Alison Choy Flannigan at alison.choyflannigan@holmanwebb.com.au or 0411 049 459.

Holman Webb have been nominated for many awards this year in recognition of the expertise we provide

Australasian Law Awards 2018:

- Partner, John Wakefield, Australian Arbitrator of the Year
- Law firm of the Year (1-100 lawyers) Finalist
- Insurance Specialist firm of the Year Finalist
- CEO, Greg Malakou, Law Firm Leader of the Year (≤200 lawyers) Finalist

Australian Financial Review Best Lawyers 2018:

- Alison Choy Flannigan, Biotechnology Law, Health & Aged Care Law
- Caroline Knight, Occupational Health & Safety Law
- Corinne Attard, Franchise Law
- John Chouris, Insurance Law and Occupational Health & Safety Law
- John Van de Poll, Insurance Law
- John Wakefield - Alternative Dispute Resolution
- Mark Sheller - Insurance Law, Litigation

2018 Lawyers Weekly Partner of the Year Awards:

- Alison Choy Flannigan, Health Partner of the Year Finalist
- John Van de Poll, Insurance Partner of the Year Finalist

Lawyers Weekly Australian Law Awards 2018:

- Workplace Relations & Employment Team Finalist



KEY CONTACTS

Sydney

Alison Choy Flannigan
Partner - Corporate and commercial,
regulatory,
Health, aged care and life sciences
T: +61 2 9390 8338
alison.choyflannigan@holmanwebb.com.au

Rachael Sutton
Partner – Workplace relations
T: +61 2 9390 8422
Rachael.sutton@holmanwebb.com.au

John Van de Poll
Partner – Medical malpractice and
discipline
T: +61 2 9390 8406
Jvp@holmanwebb.com.au

Robin Young
Partner - Workplace relations
T: +61 2 9390 8419
Robin.young@holmanwebb.com.au

Zara Officer
Partner
T: +61 2 9390 8427
zara.officer@holmanwebb.com.au

Lucy Kerley
Special Counsel
T: +61 9390 8436
Lucy.kerley@holmanwebb.com.au

Melbourne

Colin Hall
Partner – Medical malpractice and discipline
T: +61 3 9691 1222
colin.hall@holmanwebb.com.au

Brisbane

Mark Victorsen
Partner – Medical malpractice and
discipline
T: +61 7 3235 0102
mark.victorsen@holmanwebb.com.au

Heath Gleg-Scott
Partner – Property and commercial
T: +61 7 3235 0138
Heath.gleg.scott@holmanwebb.com.au

Adelaide

Caroline Knight
Partner
T: 61 8 7078 3101
Caroline.knight@holmanwebb.com.au

For additional enquiries or if you wish to reproduce any part of this publication please contact
Alison Choy Flannigan, Partner on +61 2 9390 8338 or alison.choyflannigan@holmanwebb.com.au

Editor: Alison Choy Flannigan

For all other enquiries please contact
Adriana Giometti +61 2 9390 8456 or Adriana.giometti@holmanwebb.com.au

Privacy Notice: You have received this publication because we have worked with you or networked with you or a health industry association of which we are a member. If you require further information on how we collect, use and disclose your personal information our privacy policy is available at <http://www.holmanwebb.com.au/privacy.html>

You may opt-out of receiving future copies of this publication.
To do so, please email your request to: hw@holmanwebb.com.au

HOLMANWEBB
LAWYERS

Sydney

Level 17 Angel Place
123 Pitt Street
Sydney NSW 2000
T:+61 2 9390 8000

Melbourne

Level 17
200 Queen Street
Melbourne VIC 3000
T:+61 3 9691 1200

Brisbane

Level 13
175 Eagle Street
Brisbane QLD 4000
T:+61 7 3235 0111

Adelaide

Level 6
55 Gawler Place
Adelaide SA 5000
T:+618 7078 3100

The contents of this publication are general in nature and should not be relied upon as legal advice. No reader should act on information contained within the publication without first consulting us.

© Holman Webb, September 2018

www.holmanwebb.com.au