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To the Proper Officer.

United Workers Union Submission to the 2025 Progress Report on Implementation of the Aged Care Royal Commission Recommendations

The United Workers Union (UWU) is a union with 150,000 workers across the country from more than forty-five industries and all walks of life. UWU represents members across both residential and in-home aged care services performing various roles day and night, including care workers, hospitality staff and cooks, cleaners, lifestyle assistants, enrolled nurses, laundry workers and maintenance workers.

UWU supported the recommendations of the Aged Care Royal Commission ('the Royal Commission') which recognised that workers in this predominantly feminised sector have been undervalued for too long. Low pay, long hours, and unsafe conditions have been detrimental for both older people who receive aged care, and the workers who provide it.

Our members also supported the Commission's recommendations aimed at improving Australia's aged care system in areas such as:

- Monitoring provider performance, particularly on care time
- Improved workforce standards such as preferencing direct employment
- Improved complaints management and protection for whistleblowers
- Fair processes around worker screening and registration.

Unfortunately, the positive contributions aged care workers have been making every day to the realisation of the goals of the Royal Commission, have now been undermined by the removal of provisions for structured Worker Voice committees from the new Aged Care Act.

The 'Worker Voice' was a union proposal for a care time monitoring mechanism that actively involved the workforce through:

- consultative structures.

- access to transparent information on care time reporting at the facility level.
- training so that workers are empowered to monitor care time.

UWU contends that only workers on the ground in aged care can provide reliable sources of information on whether providers are meeting their obligations to provide quality care to older people.

For example, our members regularly inform us about providers failing to properly deliver direct care time, because unfortunately, some try to manipulate the system. As a care worker from South Australia told us:

‘Providers will falsify documents and make staff do out of scope practices to ‘make up’ the care minutes. You need to make sure the requirements can’t be twisted. I have been in the room when providers have done this’.

Unfortunately, while ‘Worker Voice’ provisions were in the first reading version of the *Aged Care Bill 2024*, they were lost from the final version as passed by both houses of Federal Parliament.¹ Having no Worker Voice mechanism in the Act greatly restricts the vital roles workers can play in care time monitoring and holding providers accountable on quality care.

Workers who want to hold providers to account must rely on improvements to complaints mechanisms and whistleblower protections. While the reforms to these measures are valuable, they are framed as empowering *individual* workers to raise issues. For example, the Department’s explanatory webpage on ‘Protection for Whistleblowers’ talks about *how ‘people can make the [whistleblowing] report in person, over the phone or in writing’*.² However, the issues identified by the Royal Commission are widely spread and structural. Aged care as a sector needs to be fixed so the older people get the quality care they are entitled to receive. There is no sector without aged care workers, and without a consultative mechanism such as the ‘Worker Voice’ aged care will not fully benefit from an engaged workforce who monitor care time.

UWU’s responses on the progress of implementing specific recommendations, as summarised in the Inspector General’s 2024 *Progress Report*, are as follows:

Recommendation 77: National registration scheme

The Inspector General’s 2024 *Progress Report* states that, along with other measures regarding national registration, the proposed new Act will *‘facilitate implementation of any requirements in relation to worker screening’*.³

UWU agrees that there needs to be effective measures for screening workers. Insofar as an Aged Care worker screening process will reflect that of the NDIS, UWU members feel that the NDIS process is working reasonably well, aside from long waiting times in some states.

UWU makes the point however that while registration is an important safeguarding strategy, it should not be exclusively relied upon to protect people receiving aged care. Public investment in aged care to address adequate staffing numbers, hours, and working conditions remains critical to ensure that workers can provide high quality care.

The worker registration scheme should not result in the unintended consequence of restricting the growth of that workforce at a time when more workers are desperately needed.

UWU is particularly concerned about the impact of the registration scheme on culturally and linguistically diverse (CALD) workers in aged care, on whom the system relies on to keep functioning at all levels. CALD workers are more frequently the subject of complaints motivated primarily by racism. The worker registration scheme should therefore contain safeguards to protect CALD workers. Without such protections it will be much harder to attract and retain these vital workers in aged care.

Improved protections for CALD workers are of course improved protections for all workers. It is important that workers in aged care are afforded procedural fairness in the registration process, along with the ability to seek representation from their union. Registration should also be managed through an independent regulatory body that is *not* the Australian Health Practitioner Regulation Agency (AHPRA), as AHPRA is not appropriate for the regulation of non-clinical and non-medical staff such as personal care workers (PCWs).

UWU's proposals would ensure that the national registration scheme is appropriate to the skills, roles, and professional expectations of aged care workers without creating excessive barriers to entry. Our proposals would ensure that enough workers are attracted to and retained by the Aged Care system to fulfil the vision of the Royal Commission.

Recommendation 84: Increase in award wages

UWU members enthusiastically welcomed the Fair Work Commission's (FWC) decision in Stage 3 of the Aged Care Work Value Case, which considered union claims for wage increases to address the historic undervaluation of aged care work. In that decision, the FWC found that the work of aged care sector employees had been historically undervalued

because of assumptions based on gender, including a failure to properly value feminised “invisible skills”.⁴

In the Stage 1 decision, direct care workers in aged care had been granted an interim increase of 15%. The Stage 3 decision resulted in increases of up to 28.5% for PCWs (inclusive of the interim 15% increase). This was a significant win for UWU members and workers in aged care:

“Over the years in aged care, I’ve noticed small increases, like 50 cents per hour, which didn’t really make a difference. The work value increase pay rise has allowed me to live a better life and enjoy the simple things that people often take for granted, like going out to dinner with my family or to the movies. I’m able to do things like that now!” Lindsay, UWU member, with 17 years’ experience as an aged care worker.

“The wage increase has made a huge difference for me and my family. We can now enjoy more time together without feeling as stressed and I feel more valued for the important work I do in aged care.” Binod, UWU member, with 7 years’ experience as an aged care worker.

However, increased award wages are only the first step to ensuring work in aged care is paid to its full value. Changes to the multi-employer bargaining stream of the *Fair Work Act 2009*, passed in 2022 and implemented in 2023, including the introduction of the supported bargaining stream, will be crucial in ensuring that the aged care sector offers workers decent wages, and can attract and retain the skilled staff it needs to fulfil the goals of the Royal Commission.

Recommendation 85: Improved remuneration for aged care workers

The 2024 *Progress Report* noted that the Independent Health and Aged Care Pricing Authority (IHACPA) ‘is able to take into consideration wage adjustments made by the FWC, and more broadly wage costs and cost growth, in pricing development but not recommend funding to support an increase in wages as proposed by the Royal Commission’. it goes onto note that ‘[t]he establishment of IHACPA] does not implement recommendation 85 because it does not have the power to set prices and it cannot recommend an increase in funding to increase wages.’⁵

UWU contends that IHACPA pricing should incorporate outcomes of bargaining above the award, along other costs that encourage the retention of current Aged Care workers, and the

attraction of new ones. Care workers, especially those with both experience and qualifications, are increasingly valuable in the broader labour market. Aged care must be able to compete for these workers on both pay and conditions.

Recommendation 24: Star ratings: performance information for people seeking care

The Star Rating system was introduced to assist older people and their families to compare the quality of Aged Care services. Unfortunately, the current version is failing to accurately reflect deficiencies in care and is not a reliable guide to quality. In January 2023 a report into the Star Rating System was released by Rodney Jilek, a former compliance officer in aged care, which found that approximately 300 homes were rated between 3 and 5 stars despite being found by the Aged Care Quality and Safety Commission (AQSA) to be non-compliant with government standards.⁶

The 2024 *Progress report* states that *'[t]he Inspector-General strongly supports expanding the scope of star ratings to capture other aged care services, where the majority of older Australians receive their care'*.⁷ UWU contends, however, that the flaws in the star ratings are such that these should be addressed urgently before any expansion in scope takes place. These flaws can be seen in how providers treat the crucial metric of care time.

Recommendation 86: Minimum staff time standard for residential care

There is overwhelming evidence that aged care providers, especially for-profit providers, are failing to deliver their mandated care times. A study in 2024 by the UTS Aging Research Collaborative found that nearly two-thirds of Aged Care homes are failing to meet mandated levels of care.⁸ UWU analysis of the Australian Institute of Health and Welfare's (AIHW) *Star Rating Quarterly Data* for November 2024 also indicates that 38.7% of aged care facilities are failing to meet their total care time minutes minimum standards.⁹ Participants in a UWU snap poll conducted in November 2024 reported the following:

'I don't believe our residents are getting the appropriate amount of care minutes per day based on the roster' – Amy, PCW & UWU Member.

'Care staff are having to do the job of multiple people without any extra support or pay, leaving residents with less care time' – Nicole, PCW & UWU Member.

Providers will try to conceal this situation by manipulating staff classifications. UWU members have informed their union about providers reclassifying support roles to meet minimum care time standards, rather than recruiting or training the additional workers they

need to ensure residents are receiving the care they require. The 2023 *Aged Care Provider Workforce Survey Summary Report* by the Australian Institute of Health and Welfare (AIHW) shows evidence of such manipulation occurring in real time. It found that while the total estimated number of nursing and PCW staff in residential aged care increased by 8% from 195,000 in 2020 to 210,000 in 2023, the number of non-direct care staff decreased by 73% (from 52,800 in 2020 to 14,000 in 2023).¹⁰

Ongoing issues with understaffing are impacting on the provision of care time minutes. Staffing ratings must be accurate for the Overall Star Rating system to have any reliability or credibility. Otherwise, the Star Rating system will not increase accountability or incentivize improvement in aged care facilities.

In the *Final Report* of the Royal Commission, Commissioner Briggs noted that *'the extent of substandard care differs across different provider types'*. Specifically, *'that government-run residential aged care providers perform better on average than both not-for-profit and, in particular, for-profit aged care providers'*.¹¹

UWU has found that, since the Final Report, and despite a massive injection of aged care funding, for-profit Aged Care providers are *still* largely delivering substandard care. AIHW's statistics show that only 23 per cent of for-profit providers are hitting targets for care-time minutes of direct care workers and registered nurses, compared to 44 per cent of not-for-profit providers.

UWU contends that a predominance of for-profit providers in the aged care system is detrimental to implementing the Royal Commission's recommendations on improved staffing and caring. However, the flaws in the Star Rating system continue to allow these providers to get away with lower care standards. To improve accuracy and accountability, the significance of failing to meet minimum care time minutes must be reflected in the Star Rating system: non-compliance in this area should correspond to both a low Staffing Star Rating and a low Overall Star Rating. This could be done by requiring that any facility failing to meet care time minimum standards should not be eligible to receive an Overall Star Rating of more than two Stars.

Recommendation 25: A new aged care program

In the 2024 Progress Report, it was noted that the *'Inspector-General considers this recommendation as 'rejected' with alternative measures 'commenced and ongoing – partially progressed'*.¹²

UWU makes the point that those ‘alternative measures’, such as the extension of the Commonwealth Home Support Programme (CHSP) transition out to 2027, have unfortunately created uncertainty for both providers and workers in home care, particularly as, in the words of the Department, *‘the CHSP workforce is underpinned by a wide array of award wages and enterprise agreements [therefore] the impact of the FWC decision may vary significantly from organisation to organisation’*.¹³

Home care Providers are now applying for grants with home care’s future conditions unclear, and home care workers who are bargaining for a wage increase must do so under conditions where funding may not cover that increase. It is a disappointing and unsatisfactory situation for this growing part of the aged care system.

Recommendation 87: Employment status and related labour standards as enforceable standards

The 2024 *Progress Report* noted that *‘the government has committed to implementing a direct employment preference, but the mechanism of how this will be implemented and enforced is still being considered’*. The Report also notes the importance of Aged Care Quality Standards Outcome 2.8 (Workforce Planning) which calls for providers to implement a workforce strategy to (among other things) *‘use direct employment to engage aged care workers whenever possible, and minimise the use of independent contractors and agencies providing contractors’*.¹⁴

The FWC’s Discussion Paper on Job Security found that there is a strong interrelationship between insecure employment and lower pay.¹⁵ Pay increases for aged care workers that are achieved through both FWC Work Value decisions, and multi-employer bargaining, are likely to increase the amount of direct employment in the sector and should be encouraged as part of implementing this recommendation.

Recommendation 98: Improved complaints management

UWU was favourable to the Royal Commission’s recommendations on improved complaints management and welcomed the new Aged Care Act’s goal of promoting a culture of raising concerns.

However, as we noted earlier, the language used in many of explanatory material on how Aged Care workers report incidents, put the onus on individual workers to make such reports. For example, the Aged Care Quality and Safety Commission’s (ACQSA) webpage

for workers on 'Reporting Incidents' emphasises that *'[a]s a worker, you must know your obligation to report all incidents to the appropriate staff member'*, and that *'Staff responsible for notifying reportable incidents must understand how to access and use the My Aged Care Service and Support portal'*.¹⁶

UWU members have informed us that many providers are extremely hostile and intimidatory towards individual workers seeking to report incidents. Therefore 'improved' complaints management should include explicit provisions allowing worker's representative organisations to make such reports on behalf of individual workers, or groups of workers. Facilitating collective representation generally would also benefit the representatives of clients and participants in the Aged Care system. Both clients and workers often have communication challenges with complex and bureaucratic systems, particularly when making complaints. Ensuring workers can have the assistance of their unions should they choose to do so will have a positive impact on the management of complaints processes.

Recommendation 99: Protection for whistle-blowers

The 2024 *Progress Report* states that it regards this recommendation as *'accepted in full'* and *'commenced and ongoing – partially progressed'*.¹⁷ However, for both workers and clients to be fully confident that they are protected, provider policies on whistleblowing should not be allowed to require the provider itself to be the first 'port of call' for a whistleblower.

The explanatory material for whistleblowing should make it clear to workers, and to older people and their families, that whistleblowers can report incidents and concerns directly to regulators, or even the police, without having to go through the provider first.

Given that whistleblowing is intended to play a crucial role for accountability in the aged care system, both workers and their representatives (such as union delegates) should receive appropriate training on how they report incidents, and how they can ensure their reporting is acted upon.

Aged care is one of the largest investment areas for the Federal Government, with billions of dollars in current funding and more needed in the future. The key issue for UWU members is making sure that this money goes towards genuine increases in care time, not in the pockets of aged care executives. The Aged Care Royal Commission made it clear that the sector

both lacks accountability for providers and seriously undervalues its own workers. The recommendations that UWU has highlighted in this submission address these concerns, but the challenges of implementation will only be overcome by engaging collectively with aged care workers to ensure older people receive more hours of direct, high-quality care.

We thank the Inspector General for allowing us the time to make this submission. For more information on its contents, please contact Tim Dymond, Senior Policy Analyst, at tim.dymond@unitedworkers.org.au.



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¹ Aged Care Bill 2024, https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r7238

² Protection for whistleblowers <https://www.health.gov.au/our-work/aged-care-act/rights#protection-for-whistleblowers>

³ 2024 Progress Report: Implementation of the Recommendations of the Royal Commission into Aged Care Quality and Safety, p.118 <https://www.igac.gov.au/sites/default/files/2024-08/2024-progress-report-on-the-implementation-of-the-recommendations-of-the-royal-commission-into-aged-care-quality-and-safety.pdf>

⁴ Aged Care Work Value Case, Stage 3 decision [2024] FWCFB 150, [156].

⁵ 2024 Progress Report, p.124.

⁶ 'Five-star ratings are being awarded to aged care facilities that are non-compliant with government standards' (19 August 2024) <https://www.abc.net.au/news/2024-08-19/aged-care-star-rating-system-labelled-deceptive-misleading/10423406>

⁷ 2024 Progress Report, p.75.

⁸ 'Most aged care homes are falling short of minimum standards- new report', *The Conversation* (28 June 2024) <https://theconversation.com/most-aged-care-homes-are-falling-short-of-minimum-care-standards-new-report-232991>

⁹ Star Ratings quarterly data extract (November 2024) Australian Institute of Health and Welfare, available at: <https://www.gen-agedcaredata.gov.au/resources/access-data/2024/november/star-ratings-quarterly-data-extract-%E2%80%93-november-2024>

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- ¹⁰ 2023 Aged Care Provider Workforce Survey: Summary report (27 August 2024), p.7 https://www.gen-agedcaredata.gov.au/getmedia/6f6d19d5-fc75-4b0d-9446-d7c950c76787/2023_ACPWS_Summary_Report.pdf
- ¹¹ Royal Commission into Aged Care Quality and Safety, Final Report: Care, Dignity and Respect, Vol. 1, p.72 <https://www.royalcommission.gov.au/system/files/2024-03/aged-care-rc-final-report-volume-1.pdf>
- ¹² 2024 Progress Report, p.76.
- ¹³ Letter to CHSP providers from Department of Health and Aged Care (June 2023) <https://www.health.gov.au/sites/default/files/2023-06/letter-to-chsp-providers-increase-in-award-wages-for-aged-care-workers.pdf>
- ¹⁴ Strengthened Aged Care Quality Standards – February 2025, p.20 <https://www.health.gov.au/sites/default/files/2025-02/strengthened-aged-care-quality-standards-february-2025.pdf>
- ¹⁵ Modern Awards Review 2023–24, Discussion Paper - Job Security, pp. 35-36. <https://www.fwc.gov.au/documents/sites/award-review-2023-24/am202321-discussion-paper-job-security-181223.pdf>
- ¹⁶ Reporting incidents <https://www.agedcarequality.gov.au/workers/reporting-incidents>
- ¹⁷ 2024 Progress Report, p.133.