



Aged Care Bill 2024

Submission by the Summer Foundation

25 September 2024

Introduction

The Australian Government introduced the *Aged Care Bill 2024* (the Bill) to Parliament on 12 September 2024. This Bill is designed to implement fundamental reforms to the aged care system. If passed by the Parliament, the Bill will become the new Aged Care Act, with anticipated commencement of 1 July 2025.

The Summer Foundation welcomes the opportunity to make this submission which outlines our view that the Bill needs strengthening to ensure the eligibility provisions do not enable wider entry into aged care for younger people with disability.

Summer Foundation

The Summer Foundation makes this submission to the Community Affairs Legislation Committee to inform its consideration of the provisions of the *Aged Care Bill 2024*.

The Summer Foundation was founded in 2006 to stop young people with disability being forced to live in residential aged care (RAC). The Summer Foundation is now shifting its focus to identifying, designing and scaling up great ideas that deliver better housing and living solutions for Australians with disability who need access to 24/7 support.

Key issues

The Aged Care Royal Commission stated that putting younger people with disability in RAC settings must stop and recommended no younger people be in aged care facilities by 2025. Government accepted this recommendation.

Despite this recommendation, younger people in, or at risk of entering, RAC are often:

- Told that aged care is the only suitable option for them to live given their support needs, despite other suitable housing options being available, or able to be arranged, for them
- Not provided with adequate information about alternative models of housing
- Not provided with guidance to navigate and explore these options

The intent of the Bill must be for people under the age of 65 to only enter aged care when it is the most appropriate option. We believe there must be some additional changes to the Bill to ensure this occurs in every case and aged care is preserved for supporting older people.

The key issues we address in this submission are that:

- Determinations of eligibility must not create a pathway for any younger person to enter RAC, regardless of First Nations or housing status
- Being 'homeless' or 'at risk of homelessness' must be defined to ensure that appropriate service systems have fulfilled their responsibilities and aged care does not become a substitute for appropriate, accessible, community-based support
- Provisions that relate to, or impact, First Nations communities must be designed and implemented with these communities
- Individuals electing to enter aged care under 65 must have been able to test access to other systems that may meet their support needs in order to make an informed decision that entering aged care is right for them

Recommendations

Eligibility determination

Section 58 of the Bill states that there must not be an eligibility determination for an aged care needs assessment unless the individual:

- (i) Is aged 65 or over
- (ii) Is an Aboriginal or Torres Strait Islander person and is aged at least 50
- (iii) Is homeless, or at risk of homelessness, and is aged at least 50

The Summer Foundation supports the inclusion of criteria for determination of eligibility for entry into the aged care system. However, the proposed criteria must be amended to ensure no younger people enter RAC when more age appropriate housing and support could be established.

Define homelessness to ensure people do not unnecessarily enter aged care

To ensure young people with disability are not forced into RAC, the Bill must provide a definition of homelessness tailored to this population. There are many situations in which a person with disability may not have appropriate accommodation, including when their health and accessibility needs change suddenly, when their support needs or support person/network change (including in cases of relinquishment) or after hospitalisation. Dozens of people have entered care because other service systems deemed a person at risk of homelessness when their care should have been provided elsewhere.

In these circumstances, it is essential people receive skilled support to navigate their housing and support options, and are able to access transitional housing if needed. This can avoid the situation in which a person enters aged care because they believe there are no other options available to them.

Recommended amendment

The Bill (s58(a)(iii)) or subsequent rules must define when a person is “homeless, or at risk of homelessness” so that aged care is retained for its intended use, not as a substitute housing arrangement when other systems fail to meet their obligations.

Ensure access to culturally responsive support before entering aged care

The rights of First Nations people to culturally responsive support must be upheld in the Bill’s eligibility provisions (s58) and oversight structures. To ensure no First Nations people inappropriately enter aged care, the Bill should require the Department of Health and Aged Care to work closely with relevant organisations (for example, Synapse and First Peoples Disability Network Australia) to ensure all culturally responsive housing and supports have been exhausted prior to entry into aged care.

The principle that no First Nations person between 50-64 years is forced to enter RAC should be upheld through a sustainably funded program that facilitates access to housing and supports considering the holistic needs of the person. Such a program should be delivered by skilled facilitators who are trusted by First Nations communities.

The creation of a First Nations Aged Care Commissioner is a welcome addition to safeguarding the rights of First Nations people in aged care settings. This position and other provisions in the Bill that relate to, or impact, First Nations communities must be designed and implemented with First Nations communities.

Recommended amendment

The Bill (s58) should be strengthened to ensure culturally responsive and appropriate supports for First Nations people have been exhausted prior to entry into aged care.

Strengthen requirements about electing to enter aged care

Section 58(c)(ii) states that an individual under 65 who enters aged care must be “informed, prior to making the election, of any other services that may be available to meet the care needs of the individual”.

This is an insufficient threshold for entry into aged care. This clause should be amended to ensure individuals have tested access to other support systems and had access to appropriate support to navigate their options before electing that the aged care system is best placed to meet their support needs.

Recommended amendment

The Bill (58(c)(ii)) must be strengthened to ensure individuals have tested access to other support systems, and had access to appropriate support to navigate their options, before electing that the aged care system is best placed to meet their support needs.