



## Office of the Interim First Nations Aged Care Commissioner: Submission on New Aged Care Act Rules consultation – Release 1 – Service list

4 November 2024

### Overarching comments

- In 2021 the Royal Commission into Aged Care Quality and Safety (Royal Commission) outlined the current system is failing to deliver culturally safe care.
- All levels of Government have agreed to implement the *National Agreement on Closing the Gap* Priority Reforms. These include:
  1. Formal Partnerships and Shared Decision-Making
  2. Building the Community-Controlled Sector
  3. Transforming Government Organisations
  4. Shared Access to data and Information at a Regional Level
- The Department is required to work to embed the priority reforms in the design of policy, legislation and programs.

Given the short timeframes provided to review the service list, the Office of the Interim First Nations Aged Care Commissioner is available to discuss and expand upon any of the points raised below.

### Key Issues and Recommendations

#### Consultation Process and communication to the sector

- The Interim First Nations Aged Care Commissioner (the Interim Commissioner) heard feedback from First Nations peak bodies that 4 weeks is an insufficient timeframe to **understand, review, or engage with the member organisations** on the content of the Service list of the new Aged Care Act.
- It is strongly recommended the Department of Health and Aged Care (the Department) release a forward schedule of the dates of consultations on the remaining Rules *in advance* of their release. This is critical as we enter the end of the year Christmas/New Year shutdown period, with many organisations experiencing reduced workforce capacity.

#### Terminology: Aboriginal and/or Torres Strait Islander

- Recommend update language on page 2 under ‘diverse cultural activities’ to reflect: (a) Aboriginal **and/or** Torres Strait Islander persons.

#### Aboriginal Health Workers and Aboriginal Health Practitioners

- It is encouraging that Aboriginal Health Workers and Aboriginal Health Practitioners have been identified in the service list.



- Was the peak body (the National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners) engaged in the drafting of the service list which makes specific reference to the categories of workers they represent?
- We are concerned the current terminology within the rules doesn't accurately reflect the scope of practice of Aboriginal Health Practitioners and Aboriginal Health Workers.
- We **recommend** further consultation, specifically with the National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners, to verify the validity and accuracy of the references to these categories of workers in the rules.

#### Access to culturally safe, trauma-aware and healing informed services that reflect the evidence on the social and cultural determinants of health

- The exposure draft of the Aged Care Bill articulates that an individual has a right to equitable access to:  
'(d) funded aged care services being delivered to the individual:  
(1) in a way that is **culturally safe, culturally appropriate, trauma-aware and healing-informed...**'
- However, there is an absence of this language within the current draft of the service list. There is not a single reference to 'healing' in the service list.
- There is also no reference to the principles of **social and emotional wellbeing** which reflect the holistic definition of Aboriginal and Torres Strait Islander health.
  - This is not for a lack of evidence or agreement on this definition. The Department has entered into a formal policy partnership on social and emotional wellbeing.
- We **recommend** the service list **be expanded to include culturally safe, trauma-aware and healing informed language and principles.**
- We **recommend** the service list **makes reference to social and emotional wellbeing** to respond to the accepted body of evidence on this reflecting the worldviews, lived reality and experiences of Aboriginal and Torres Strait Islander communities.
- The following excerpt provide examples of where this language needs to be included *but is not an exhaustive list* and we welcome the opportunity to discuss this further with the team:
  - (p7) **Division 2 – Home support and service types subsection (2) (a) should be revised to reflect the following:**
  - 'is for the individual to regain or maintain physical, functional, **social and emotional wellbeing** or cognitive abilities that support the individual to remain safe and independent at home'; (p33) **Emotional support** be amended to include reference to social and emotional wellbeing.
  - (p46) **Therapeutic services for independent living** be amended to include reference to social and emotional wellbeing.



- **Division 8 & 9 Residential** care service types.
- We request the opportunity to understand *why* culturally safe, validated services that will support older Aboriginal and Torres Strait Islander people to age well have not been included in the current service list, including reference to traditional healing and medicines.

#### Art therapy

- We support the inclusion of art therapy. However, the rules are currently drafted in a way that excludes and negates the knowledge, skills and practice of traditional artists who are already delivering art therapy but don't meet the registration of 'health professional'.
- Further, the Department is well aware of challenges of current workforce shortages. This is well evidenced and the subject of the Departments own Health Workforce Taskforce.
  - What happens in communities where there is no health professional to deliver art therapy but there is a local artist with the requisite skills, cultural knowledge and authority to deliver this service to older Aboriginal and Torres Strait Islander people?
  - Further, what happens to those people with art therapy qualifications who are already delivering this service but do not meet the 'health professional' definition?
- Will traditional weaving be recognised and incorporated under the category of art therapy? If not, why not?

#### Access to tailored support for Stolen Generation survivors

- Based on the current draft service list, how has the Department sought to facilitate access to culturally safe, trauma-aware and healing informed services for survivors of the Stolen Generations?
- Stolen Generation survivors are more vulnerable than Aboriginal and Torres Strait Islander people aged 50 years and over who were not removed. Stolen Generation survivors aged 50 and over have higher odds of experiencing adverse outcomes across a range of social, economic and health-related outcomes compared to Aboriginal and Torres Strait Islander people aged 50 and over who were not removed (AIHW, 2021).
- Recognising the barriers, adverse outcomes, and lower rates of accessing aged care experienced by older Aboriginal and Torres Strait Islander people, and particularly Stolen Generations survivors, it is imperative that an equity-based approach is taken to ensure that appropriate aged care is available to meet their unique needs.
- Stolen Generation survivors are now all aged 50 years and older and thus are eligible for aged care. In every state and territory, the Interim Commissioner met with survivors who aspire to age with dignity.



- To illustrate, in South Australia **1 in 4** older Aboriginal and Torres Strait Islander people (aged 50+) is a Stolen Generations survivor (AIHW, 2021).
- Acknowledging the work of the community-controlled sector and The Healing Foundation, what the Interim Commissioner heard in her consultations reaffirmed the urgent need for the aged care system to embed trauma-aware, healing informed cultural safety training for the workforce, and to invest in innovative models of care, specifically for survivors as they age.

#### Connection to Country

- We interpret that the sovereign rights of Aboriginal and Torres Strait Islander people to connect with Country will be addressed under 'diverse cultural activities' – noting this is a very broad definition as currently drafted. Is this correct?