

Objectives

The Inquiry is charged with examining the circumstances leading to a collapse in the provision of aged care services for the residents of the Earle Haven Retirement Village (the Service) and the events that occurred on Thursday 11 July 2019 and their aftermath (the Events).

The Inquiry is to be led by Ms Kate Carnell AO and to take into account the objects of the *Aged Care Act 1997* and the *Aged Care Quality and Safety Commission Act 2018* and in particular the protection of the health and well-being of consumers of aged care services and the accountability of the providers of the care for the funding and for the outcomes for recipients.

Terms of reference

1) The Inquiry is to examine:

- i. the impact and consequences of the Events on the safety and wellbeing of residents of the Service and their representatives;
- ii. the management and operational structure of the Service and the governance, management and operational structure of the approved provider and owner People Care and its sub-contractor HelpStreet and the key personnel acting on their behalf in relation to the Service;
- iii. the contractual relationship between People Care and HelpStreet and whether there were any provisions in that contractual relationship designed to avoid or mitigate the Events;
- iv. whether there were appropriate risk management and emergency planning procedures in place for the Service and whether they were activated either prior to or during the Event;
- v. whether the governance arrangements in place at the Service were adequate or presented particular risks to residents of the Service and the Commonwealth;
- vi. whether the contractual arrangements between the approved provider and a subcontractor to run the Service presented particular risks to the continuity of service delivery and to the support of residents of the Service and the Commonwealth.
- vii. what actions were taken by either People Care or HelpStreet to alert State or Commonwealth authorities to the potential, and then actual, collapse in the provision of aged care services at the Service;
- viii. whether the Events could have been prevented and, in particular, whether the existing monitoring and regulatory arrangements put in place for the Service by: a) the Department of Health and b) the Aged Care Quality and Safety Commission, were adequate and how they might be improved;
- ix. the differentiating roles and responsibilities of the state government and the Commonwealth government in preventing and managing such events and whether different arrangements may have assisted in detecting or responding to the Events;
- x. the financial arrangements in place between People Care, HelpStreet, and any residents of the Service and the appropriateness of the arrangements in ensuring compliance with their legal obligations under the relevant legislation and the protection of the rights of the residents;

- xii. the legislative framework which applies to the provision of aged care services and in particular:
 - i. whether sufficient powers, processes or other arrangements exist to identify in advance the risk of events like that which occurred at the Service;
 - ii. whether sufficient powers exist for the Commonwealth to manage events like that which occurred at the Service;
 - iii. whether sub-contracting arrangements, like those between People Care and HelpStreet, present particular challenges in ensuring regulatory compliance;
 - iv. whether sufficient powers exist to stop any suspected illegal acts including fraud within aged care services;
 - v. whether sufficient offences and penalties exist to deter and punish conduct inconsistent with the objects of the Aged Care Act; and
 - xiii. whether improvements could be made to the administration of aged care to better manage, or reduce the risk of, an event such as that which occurred at the Service.
- 2) The Inquiry may make any recommendations related to its findings including recommendations for legislative reform, systemic change or on matters incidental to its findings.
 - 3) The Inquiry may:
 - i. seek any information relevant to its work and in particular any document or financial statement from any person, company, department, agency or other entity;
 - ii. ask questions of any person, company, department, agency or other entity; and
 - iii. invite public submissions.
 - 4) The Inquiry will keep the Minister for Aged Care and Senior Australians, Senator the Hon Richard Colbeck, apprised of its progress including any difficulties in meeting timeframes.
 - 5) The Inquiry is required to submit its findings and recommendations to the Minister for Aged Care and Senior Australians, Senator the Hon Richard Colbeck, in October 2019.