CARE POLICIES

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Labor came to government promising to fix badly broken aged care and disability support systems and set early childhood education and care (ECEC) on a path to being an affordable and universal service. Critical workforce shortages, driven by low pay and poor-quality jobs, plagued all three systems, while a myriad of other problems also demanded system-wide reforms. In the first 18 months the new government made some very significant regulatory changes and substantially increased investment in some crucial areas. Responsible ministers also set in train important policy reviews and reforms that are intended to set directions for the sustainability of Australia's care systems into the future, in a context of rapid and significant growth in demand. However, to date, nothing in the new directions being set by the government suggest there will be any lessening of reliance on the market models for care provision that have enabled Australia's public care systems to become dominated by private providers that wield significant power and frequently operate to undermine the public interest.

Since the 1980s, successive federal governments, both Labor and Liberal-National Coalition, have adopted policies driving increased marketisation of many social services, including aged care, disability support and early childhood education and care (ECEC). While they have had different goals for services, both Labor and Coalition governments have introduced and strengthened the use of market mechanisms as a way of containing public expenditure (Considine 2022; Stebbing and Meagher 2022). There is now plenty of evidence to show that, despite the diversity of services systems and market instruments, these marketised systems are often failing to deliver the innovation, consumer choice and high quality services that were promised (see: Cahill and Toner 2018; Meagher and Goodwin 2015;

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Meagher *et al.* 2022). Yet, market-based social services provision is entrenched, and the new federal Labor government appears highly unlikely to challenge this.

On coming to office in May 2022, the Albanese Labor government acted quickly to implement recommendations of the final report of the Royal Commission into Aged Care Quality and Safety (the Aged Care Royal Commission) (2021) to address service quality and workforce sustainability problems that had become glaringly apparent during the COVID-19 pandemic. The new government also followed through on their election promise to address the 'childcare affordability crisis' by increasing and extending eligibility for the Child Care Subsidy, a payment that reduces ECEC fees paid by families (Australian Labor Party 2022b). The government's reform narratives and focus shifted fairly quickly from tackling immediate care crises to 'fixing' systems and taking a 'more proactive approach' to develop 'whole-of-system solutions' (Australian Government Strategy 2023: 1). A rhetorical change has seen aged care, veterans' care, disability support and (ECEC) collectively characterised as the 'care and support economy', and as investments in social infrastructure with importance for 'gender equality, socio-economic equality, poverty reduction, inclusive growth and sustainable development' (Australian Government 2023: 2, 9). With the COVID pandemic shining a light on the chronic problems of low pay and insecure work, and the ways in which they contribute to care system failures, there was little determined opposition to Labor's 2022 industrial relations reforms targeted to achieving better pay in care and community services sectors (see: Stanford *et al.* this issue).

Along with reforms to formal care systems, the new Labor government has made some other significant changes that progress the goal of better valuing work and care. Much needed increases in paid parental leave were widely welcomed. However, gender equality advocates, parents' groups and others, including the government's Women's Economic Equality Taskforce, consider the changes do not go far enough and implementation is too slow (see: Jericho *et al.* this issue). The government did listen to the taskforce on some issues and have abolished the punitive Parents Next mutual obligation program imposed on parents. Also, single parents receiving income support can now stay on the higher Parenting Payment until their children turn 14, reversing a Gillard government policy affecting almost a third of sole parents that had been criticised for sending sole parents into poverty (Australian Council of Social Services 2021).

The remainder of this article focuses on Labor's reforms and directions being set in the three formal care systems of ECEC, aged care and disability support through the National Disability Insurance Scheme (NDIS), examining each system in turn in the sections that follow.

Early childhood education and care

The new government's stated policy ambition for 'universal, affordable early childhood education and care' (Chalmers *et al.* 2023: n.p.) is a long way from being realised. While 60% of all 0-5 year-olds in Australia attended childcare in 2022, access is highly inequitable, and there are large divisions in affordability and participation along regional and social-economic lines (Australian Competition and Consumer Commission [ACCC] 2023a).

Persistent problems of availability, affordability and quality of ECEC services have accompanied rapid expansion and marketisation which has enabled an increasing dominance of for-profit providers in place of public and community-based not-for-profits (Hill and Wade 2018). In 2022, Australia ranked 26th out of 32 OECD countries on ECEC affordability (ACCC 2023b: 26). The ACCC reports that, from 2018 to 2022, 'nominal gross fees in Australia increased by 20.6% in comparison to the OECD average of 9.5%', with the rate of increase being faster than inflation, and much faster than wage increases (2023a: 14). Households with the lowest incomes spend a greater share of their income to pay for ECEC, leading them to limit their use of services and their participation in work and study activities (ACCC 2023a: 15).

Oversight of service design and prices in the ECEC market is limited (Hill and Wade 2018). Public funding in the form of fee subsidies is the largest source of ECEC funding but the government's price caps on subsidised fees are ineffective in keeping prices down. Provision of services by private for-profit companies in this sector, as in other social services, was supposed to increase competition by keeping prices down and ensuring greater efficiency, while also providing consumer choice. Yet, large for-profit providers, including national and international chains and publicly listed companies, cluster services in the most affluent locations, while in regionals and low socio-economic areas families' access to ECEC can be very limited. The large for-profit ECEC firms pay higher CEO and executive salaries, employ fewer and less qualified staff, pay fewer of their staff above-award wages, and provide lower-quality services than not-for-profits and public providers (ACCC 2023a, 2023b; Grudnoff 2022). Provision of ECEC services, like aged care residential services, has become a property or real estate business for some providers with government and service user dollars paying to support providers' capital gains (Considine 2022; Meagher and Baldwin 2022).

Labor's headline election promise for ECEC, was to 'make childcare cheaper' – to be achieved by increasing the Child Care Subsidy (CCS) and extending eligibility to households with incomes up to $530,000 (Australian Labor Party 2022b). Reflecting the political salience of the issue, the Coalition had also come to the election offering substantial increases in childcare subsidies and, while criticising the Labor proposal as 'too expensive' pre-election, ultimately gave their support to the reform (Karp and Remeikas 2023). The subsidy was increased from July 2023 to 90% of the government's capped price of fees. This does not mean the CCS covers 90% of all fees, as providers can charge above the cap and there is a trend towards an increasing number doing so (ACCC 2023a).

Alongside reliance on the market, the policy settings for public subsidies for ECEC fees contribute to inequities in access and affordability through limiting families' eligibility on the basis of an activity test which considers how much paid work, or other approved activities the household undertakes. This has seen families with low incomes and a relatively low entitlement to subsidised hours – mainly families where women are in part-time jobs, including many sole parents – use more unsubsidised hours of care, leading to higher out-of-pocket expenses (ACCC 2023a). Calls for the abolition or simplification of the activity test have been growing since Labor first came into office including from the Labor government's own Women's Economic Equality Taskforce (2023). The activity test fits, in its intent if not in practice, with Labor's long-standing view of the purpose of ECEC as increasing women's labour force participation but it does not support the promotion of a universal ECEC system for children's education and development. The only change the government made to the activity test in 2022 was to provide Aboriginal and Torres Strait Islander families 36 hours of subsidised care to children, not subject to an activity test.

More substantial reforms needed to 'chart a course' for universal, affordable ECEC (Chalmers *et al.* 2023: n.p.) are tasks for the future, with a government-directed Productivity Commission inquiry into ECEC not scheduled to report back to the government until mid-2024. In the recent past the Productivity Commission (2017) has been an enthusiastic advocate of the ECEC market. However, the current inquiry arrangements suggest a different approach is being sought as the inquiry is being co-led by ECEC expert Professor Emerita Deborah Brennan AM (Chalmers *et al.* 2023) who will bring deep knowledge and a different perspective to the issues. At the government's request, the ACCC is also conducting an inquiry into childcare including costs, pricing, labour, land use and regulatory compliance. Interim findings highlight numerous market failures (ACCC 2023b).

Aged Care

In 2018, the failures of the aged care system attracted enormous public interest when an ABC Four Corners program exposed neglect and abuse of aged care residents and highlighted poor governance and lack of accountability in the system. A day before the ABC program was aired the Prime Minister, Scott Morrison, announced a royal commission into aged care quality and safety would commence at an unspecified time in 2019. Aged care experts and observers did not expect much in the way of new findings to come from the Aged Care Royal Commission. Along with various scandals, there had already been multiple inquiries and reviews into aged care over the previous decade finding serious problems of poor care, including preventable deaths, arising from understaffing, under-spending, poor governance and lack of robust oversight by some aged care residential services providers.

Analyses of aged care policy show how, over decades, policies have driven marketisation in ways that have enabled the development of for-profit providers that now wield considerable power in the sector and to some extent determine what happens across it (Considine 2022; Davidson 2018; Meagher and Baldwin 2022). Assessing the impacts of marketisation, Bob Davidson concludes that, while there have been some positive outcomes, these are almost certainly the result of other factors. Overall impacts are mixed or uncertain in regard to efficiency and to citizens' rights (now reframed as consumer choice). Clearly negative outcomes of marketisation include effects on quality, equity, accessibility, financial burden on users and their families, and an increased focus by providers (including not-for-profits) on commercial objectives (Davidson 2018).

The Aged Care Royal Commission's final report in 2021 identified all of these problems and placed a considerable part of the blame on the failure of the federal government to adequately fund aged care, to take responsibility for strategic governance and to ensure oversight of the aged care system (2021: 46). However, although the Commissioners had suggested in a 2019 interim report that they would explore alternatives to market organisation, the final report did not include any considerations of moving away from the market model (Meagher and Baldwin 2022: 216).

The Coalition government committed to implementing many, but not all, the recommendations of the Aged Care Royal Commission. Prior to the 2022 election they expanded the number of packages for homecare services to address long waiting times and growing demand. The then government also agreed to implement a mandatory minimum daily care time for each aged care resident and a requirement for a proportion of care to be provided by a registered nurse. Meagher and Baldwin consider this to be 'the most significant regulatory fetter on private power' in residential aged care in decades (2022: 254).

The Aged Care Royal Commission's 148 recommendations provided the new government with a reform roadmap of sorts, and Labor's reform agenda closely follows the Royal Commission's recommendations. The new government immediately brought forward the timing of some minimum staffing requirements and embarked on a series of reform processes that include new funding formulas and regulation designed to strengthen standards and provide greater transparency and oversight. A new Aged Care Act that outlines Australians' rights to care is to replace the existing legislation that is concerned with providers and funding mechanisms.

In opposition, Labor committed to fully funding any pay increases that the Fair Work Commission might award to low paid aged care workers in the ongoing Aged Care Work Value case (Australian Labor Party 2022a). However, when a 15% wage increase was awarded by the FWC, the government argued that pay increases should be phased in and take full effect in mid-2024 rather than mid-2023 as proposed by the FWC. The aged care unions and providers joined forces to oppose the phase in and the FWC ordered the full increases to take effect from July 2023.

The big piece of aged care reform that remains uncertain is future funding. The government has established the 'Aged Care Taskforce' to review funding and 'develop options for a system that is fair and equitable for all

Australians' (Australian government 2022a). This has prompted proposals from providers for increased consumer contributions by people who have the means to pay, including through the use of superannuation (Aged and Community Care Providers Association 2023). While a tax increase is reported as being too politically difficult, comments by government ministers and a taskforce communique 'noting the wealth of aged care participants is increasing while the proportion of working-age people is shrinking' are being seen by some as clear signs the government is moving towards greater means-testing and more reliance on user pays (Coorey 2023a, 2023b).

The Aged Care Royal Commission found that a major cause of failings in the aged care system has been a rationing approach to funding that 'has been pursued irrespective of the level of need for care, and without sufficient regard to whether the funding is adequate to deliver high quality and safe care' (2021: 14). Whatever the current government's solution for aged care funding, a continuation of this type of approach will undermine any benefits of other reforms.

The National Disability Insurance Scheme

By the time the NDIS was fully rolled out in 2020, over 500,000 people with disability received support through the scheme established in 2013 by the last Labor government. In 2022 Labor came to office promising to 'defend and fix the NDIS' and to 'restore trust' in the scheme (Albanese with Shorten 2022: n.p.). The rising costs of the NDIS, driven by many more people using the scheme than had been anticipated, were becoming a concern after they surpassed the Productivity Commission's (2017) estimate (Henriques-Gomes 2022). At the same time, disability advocates were reporting cuts to individual support plans, inconsistent decision-making, and enormously bureaucratic and inefficient processes. A proposal for independent assessments of support needs was seen by advocacy groups as a trojan horse for cuts to NDIS support plans, and the initiative was dropped in the face of strong opposition. In the unevenly regulated individual consumer market, there were many accounts of provider fraud, unethical practices, and poor quality supports. In some regional and remote areas, and for some groups of people with disability, markets for supports had failed to materialise (Dickinson 2022; Malbon *et al.* 2019). Problems of poor accountability and lack of market oversight were evident a few years into the scheme's operation and there were concerns about the National Disability Insurance Agency (NDIA) capability. Questions about the capability of the NDIS Quality and Safety Commission, only established in 2018, emerged later. Lack of clarity about responsibility for aspects of the scheme persisted over time. It was not until 4-5 months after the declaration of the COVID-19 pandemic in March 2020 that the NDIA advised people they could spend their disability support funds on personal protective equipment such as masks and gloves (Macdonald 2022: 76-8, 84).

One of the biggest concerns about the NDIS was that it had become 'the only lifeboat in the ocean' (Shorten 2022). The national scheme was supposed to provide individual supports for people with significant and permanent disability, while a much larger group of people with less severe disabilities were to access support through existing programs and services and through mainstream services that would become more inclusive. However, when the NDIS commenced, many states and territories cut their funding for disability services, and people turned to the new national scheme for assistance.

The appointment of Bill Shorten as Minister for the NDIS in the Albanese Labor government was welcomed by many in the disability community, as Shorten had championed the scheme as parliamentary Secretary for the NDIS at the time of it its creation. Early actions by the government included the removal of a staff cap put in place under the Abbott Coalition government that restricted NDIA staff to 3,000, far fewer than the originally anticipated 11,000. Other reforms to review processes aimed to provide more transparency about decision-making, reduce appeals to the Administrative Appeals Tribunal and reduce waste, including by reducing government spending on consultants and on lawyers to fight NDIS participants' appeals.

In late 2022 the government announced there would be an independent review of the NDIS to be co-chaired by Bruce Bonyhady, widely regarded as the father of the scheme, and Lisa Paul, a former senior public servant (Shorten 2022). The review was to examine the design, operations and sustainability of the NDIS and ways to build a more responsive, supportive, sustainable market and workforce (Australian Government 2022b). In April 2023, Minister Shorten flagged the need for 'systemic reform' of the system (Shorten 2023).

With the NDIS review final report still under consideration by the government, the detail of reforms is yet to come. However, all indications are that there will be some tightening of NDIS spending. Currently, most of the targets for spending cuts are likely to be palatable to NDIS participants and their families, as they are waste, unethical practices, fraud, and cost-shifting from other areas such as health and education. Possible reforms that will be viewed less favourably are limits on individual plans and any tightening of eligibility, both of which appear to be under consideration (see: Shorten 2023).

Reports of appalling treatment of vulnerable people continue to come to light and bring into question the capability of the NDIS quality and safety regulator and the market design of the NDIS. The current NDIS review processes will no doubt see some strengthening of system oversight and market stewardship but how effective the reforms will be in preventing the recurrence of manipulation of the individual consumer funding arrangements for the maximisation of profit at the expense of people dependent on the NDIS, the support workforce and the broader public remains to be seen.

Conclusion

Free-market ideologies have played a big role in the development and restructuring of Australia's systems for the provision of formal care and support over recent decades, under both Labor and Coalition governments. To differing extents, organised as consumer markets, the resulting care systems have enabled the funnelling of public subsidies meant for care into the creation of wealth for private providers. Most consumers in Australia's care markets have had little power and very limited choice. In the immediate past decade, successive federal Coalition governments have determinedly refused to re-design or regulate systems to stop rent-seeking and other behaviours by providers that undermine equity, affordability and quality of care. Elected in the immediate post-pandemic period, the new Labor government has had little problem convincing the Australian people of the need for major reform. Immediate policy responses are intended to address some of the most glaring problems in ECEC, aged care and the NDIS. The harder tasks will be ensuring adequate and secure funding in the face of growing demands, and building and maintaining universal, equitable and affordable systems of good quality care in markets dominated by private providers that have their own goals.

While many of the Albanese government's care policy reforms are directed to addressing market failures, the policy ambition is limited to providing 'good market stewardship' (Australian Government 2023: 45). Perhaps this stewardship will ensure markets can and do deliver quality care services equitably and efficiently. However, this seems optimistic given past endeavours have generally failed in the face of reliance on private providers who have significant power and have been able to exercise this power to resist changes that are disadvantageous to them.

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