

Royal Commission into Aged Care Quality and Safety: Workforce Submissions Submission Prepared by Ethical Partners and Australasian Centre for Corporate Responsibility (ACCR)

About Ethical Partners

Ethical Partners Funds Management is an independent, boutique Australian fund manager with funds under management of approximately \$1.5bn. Ethical Partners has a dual focus on performance and investing ethically. Its investment approach directly manages risk for its clients, provides the ability to invest in line with clients' values and actively advocates for change. As well as investing in a manner that reflects our own and our clients' moral and ethical beliefs, Ethical Partners strongly believes that companies that treat the world and people in a better way will also do better than the broader market in the long run. By focusing on companies with the best practices when it comes to knowing where their products come from, who made them and what impact they had on the planet, we believe we are lowering risk, and generally have more confidence in investing in companies that are ahead of the pack with respect to social and sustainability issues. We also believe that investing in this way is an integral part of addressing the need for business and finance to be part of creating a more sustainable and equitable world.

Ethical Partners believes that the ethical risks of investing in the listed aged care sector is too high.¹ Our position is based on the lack of achievement of minimum standards of care across the industry generally and the corresponding impact this has on human rights. Aged care stocks are rated as High Risk in our EPORA (Ethical Partners Operational Risk Assessment) and are not part of our investable universe. We have not owned them since the inception of the Ethical Partners Australian Share Fund due to both ethical and valuation-related risks. This assessment has sadly been well and truly borne out by the Royal Commission into Aged Care Quality and Safety.

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About Australasian Centre for Corporate Responsibility (ACCR)

The Australasian Centre for Corporate Responsibility (ACCR) is a not-for-profit association focused on evaluating and improving the performance of Australian listed companies on environmental, social and governance (ESG) issues, including in particular on climate change, human rights, and labour rights. ACCR frequently engages with Australian listed companies, their shareholders, and their investors on these issues.

ACCR is a shareholder in many companies that make up the ASX100 index. ACCR regularly meets with ASX-listed companies about environmental, social and governance (ESG) issues, and regularly briefs investors about the ESG performance of ASX-listed companies.

ACCR strongly believes in the importance of the workforce in delivering long-term strategic objectives for companies. Judicious management of the workforce can directly improve value

¹ Ethical Partners (2019). *Aged Care and Ethical Investing*,
<https://www.ethicalpartners.com.au/post/aged-care-and-ethical-investing>

creation, while poor management of the workforce may not only reduce value creation but also may increase various business and operational risks. Nowhere is this clearer than in Aged Care.

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ACCR and Ethical Partners are grateful for the opportunity to provide input on the discussion regarding the Aged Care workforce and in particular, on how to ensure service providers develop a culture of strong governance and workforce leadership. We believe that a considerable change in the business model, transparency and disclosure, staffing, training, monitoring and codes of conduct in this sector is required in order to consider future investment in the sector.

Staffing levels are critical

One of the major issues that has been identified by the Royal Commission is staffing. Despite substantial evidence that links staffing numbers to the quality of care received, aged care providers are currently not sufficiently obligated to provide the appropriate mix and number of staff to meet the needs of the elderly in their care. Adequate numbers of and the 24 hour onsite availability of Registered Nurses has long been called for by medical and nursing bodies. Except for the recent introduction of mandated staff ratios in Queensland government facilities, there is currently no obligation on aged care providers to address chronic understaffing in their facilities. The lack of requirement for aged care providers to make assurances that their personal care attendants receive any training in care skills is also a huge concern. The lack of access to mental health care by elderly residents and the lack of adequate dementia management training have also been identified as problems.

In the absence of mandated staffing and qualification requirements, investors should require each of the listed providers to provide additional information regarding their policies and procedures for determining appropriate staffing numbers for the level of acuity in each of their centres. Given the stories that have emerged at the Commission, and in particular, the performance of some providers in giving evidence, we have significant concerns about the lack of transparency regarding this decision making process, which calls into question our ability to have sufficient oversight of operations necessary to ensuring the long term performance of the company.

The Australian Medical Association (AMA) and the Australian Nursing and Midwifery Federation have recently launched a joint campaign calling for immediate action to address the crisis and suffering of vulnerable elderly people in aged care. The AMA has called “for a significant increase in Federal Government aged-care funding, matched with tighter regulations to ensure that providers do not siphon off the extra money to bolster their bottom lines.” The Nursing and Midwifery Foundation has also called for the government to require “aged-care providers to publish the staffing ratios in their facilities and to transparently report on their use of publicly funded subsidies”. ***As investors, we strongly support this call.***

Financial Performance of Aged Care Stocks

In confirmation of EP and ACCR’s belief that businesses that are not properly protecting human rights will also suffer financially, the share prices of the three aged care stocks on the ASX have

suffered over the recent period since the Royal Commission was announced. We also believe the negative sentiment over the sector will, rightly, persist for a period of time, and that with the likelihood of (much needed) increased regulation, increased staffing levels, and higher costs, there may be further impacts on their share prices.

Total Return of Aged Care stocks from 16 September 2018 when the Aged Care Royal Commission was announced to 21 October 2019 vs the broader market:

- Japara Healthcare -23.6%
- Estia Health -1.1%
- Regis Healthcare -3.0%
- S&P/ASX300 Accum +12.8%

Furthermore, each of the Aged Care providers have stated that there has been a drop in occupancy rates since the start of the Royal Commission. It is arguable that this drop in occupancy represents a loss in faith in the Aged Care sector.

As investors, we are concerned by the defensive and underwhelming management attitudes that have been displayed by some listed providers in their appearances at the commission. This includes a worrying lack of remorse and humility.

We strongly believe that Aged Care providers must undergo significant internal restructuring in order to improve their service provision, stem the loss of faith in the sector and retain its viability. However, we believe that this will not occur without significant restructuring of the sector as a whole, to ensure that all providers are working to the same, transparent standards.

The restructuring of the sector must include greater regulatory oversight to include minimum staffing ratios, minimum qualifications, and mandate greater transparency regarding overall standards and levels of direct care.

Without these changes, we have concerns for the sector's long-term viability.

Aged Care Peak Bodies lobbying against quality care

A core area of ACCR's work involves scrutinising the lobbying activities of Australian listed companies, as well as the industry associations that represent listed companies on various issues.

We have concerns that many industry lobby groups have been focused on narrow understandings of short-term profit and are actively campaigning against measures that will see an improvement in quality and transparency across the sector. In acting against necessary reforms to the sector, we believe that these lobby groups are contributing to an ongoing loss of faith in the sector, and are a threat to its long term viability.²

² <https://medium.com/lobbywatch/lobby-groups-and-the-australian-aged-care-sector-ced7d9babf18>