

19 February 2017

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Dear David,

Re: Aged Care Legislated Review - public consultation

I thank you for the opportunity to contribute to the discussion in Brisbane on 14th February. I understand that we can make a contribution to elaborate on our concerns within 5 days and am taking that opportunity.

I realise that the venue was one where users of the system were primarily interested in the day to day experiences and fixing them. They would have difficulty in dealing with the complexities of a flawed system and would not see the relationship between ideas that they have been socialised to accept as self-evident and the problems they were complaining about. Clearly all of them deserved an opportunity to have their say and I was impressed by the way you managed this.

Sadly there has been no other opportunity for civil society to really engage with the legislation and examine its underlying philosophy and mode of operation. This exclusion of the community to which services are being provided reflects a long-standing practice. Services for both groups are “managed” by outsiders. The problems this has caused are now recognised for Aboriginal Health but not yet for aged care.

Even more worrying and revealing is the list of nine matters the review must consider. All of these are related to finance or organisation. Missing are any assessment of the care provided or the quality of life – the objective outcomes that the system is intended to achieve. This reflects the sort of thinking that has controlled and constrained the development of the sector for at least twenty years.

I am very critical of the current aged care system and am concerned about the way that it operates. There is much to suggest that it is failing the elderly and also our society. Aged Care Crisis, the group that I work with, shares these views. The majority of the issues that I raise here have been raised by others in the past and they have been ignored and not addressed. It is time to be blunt and critical.

I realise that you have been behind much of what I am criticising here. Please understand that it is not you that I am criticising but a system of thought and its consequences. Large numbers believe in it. They are motivated and dedicated as they follow its prescriptions and this makes criticism and change difficult. This is not a criticism of markets but of the way they are conceived and applied.

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Summary and Contents

Introduction

In introducing these additional comments I give my background in examining dysfunctional systems and address a few critical initial issues indicating that:

- the primary difficulty in society is not society's inability to change but politicians' adherence to obsolete ideas that no longer serve society and their inability to change,
- those who want innovation are those who are least willing to be innovative,
- civil society is depleted and in disarray - as markets have structured and grown civil society has stagnated and been eroded,
- aged care is trapped in this dated 20th century thinking and civil society is powerless to do anything about it,
- selling choice as a defining market attribute is hollow indeed when the chooser rapidly becomes no more than a profit body traded on the share market, and
- the aged care roadmap is set firmly within 20th century ideas that mis-specify the nature of man. It misunderstands the human condition, society and the caring process. Its lofty objectives can only be attained in spite of and not because of it.

A very human problem

I argue that aged care is a dysfunctional system. To understand what happens in dysfunctional systems like this I examine our human need for something to believe in. There is a close relationship between what we believe in and our identity. This explains why in these systems we defend our beliefs so strongly and ignore harmful outcomes when they occur. These are very difficult situations to deal with because too often dedicated people defend the indefensible and are unable to accept that their beliefs are flawed. It is best considered as a social disease. I have coined the term *culturopathy* to describe these situations and emphasise that. This makes it clear that when analysing what is happening. I am not blaming anyone.

Many protective and defensive strategies are used in these situations and I give examples from aged care. These include controlling data by censorship and/or massaging. Criticism is neutralised rather than engaged with. A variety of strategies are used to do this including simply ignoring, rationalising, illusionary assertions, aggression and seeing the criticism rather than its cause as the problem. In the absence of useful data in aged care, the use of these strategies is a pointer to problems in the system.

Social responsibility

Because those cared for are vulnerable and are readily exploited social responsibility has been an issue in humanitarian services for thousands of years. It has been addressed through ethical structures and professional oaths. Society has controlled it through discourse using terms like "*of good standing*" and "*fit and proper*" when deciding who should be trusted to care. It has been given legislative form in probity regulations.

In 1997 the probity regulations for aged were repealed even though state probity regulations had recently seen off some very unsavoury health care multinationals.

This startling decision is tracked back to the beginning of the neoliberal movement in the 1970s. Social conscience was claimed to be "unadulterated socialism" and social responsibility was seen as a "fundamentally subversive doctrine". At that time this strange belief was enormously appealing. It was

adopted by politicians in the USA and the UK. It was widely embraced by the global economic and business worlds becoming deeply embedded in marketplace culture. The market adopted this pattern of belief in Australia and then drove it into policy by funding a political party which had adopted these ideas. The depths of the belief that social responsibility was socialist is revealed in the aggressive way market leaders responded to government's attempts to address market failures by requiring some sense of responsibility and by encouraging whistleblowers.

In this and subsequent sections I describe how and why neoliberal policies eroded and emasculated civil society, the sector that in a functioning capitalist democracy sets the limits of acceptable conduct. This has had consequences for both health and aged care. I describe the impact of neoliberal management strategies on the health and aged care systems.

Studies have shown how neoliberal management strategies alter the way in which staff perceive and understand what they are there to do in the workplace. Care becomes a business task rather than a humanitarian service. The insights of the philosopher Michel Foucault explain why and how this happens.

The consequence of a market that is not restrained by any sense of social responsibility is readily apparent in vulnerable sectors. There have been major problems and exploitation in almost every vulnerable sector in both the USA and Australia. It has occurred in the wider service industry as well as in health and aged care. I use a health care company I studied in depth as an example to illustrate how neoliberal management led to fraud and extensive harm to a large number of patients. I follow this through to show the extent to which this happened in health and aged care in US companies. Some of these entered Australia. The same things have happened in home grown aged care businesses. The extent of the problems is described in the USA, the UK and Australia. I explain why health care in Australia escaped the worst of this

It could be argued that a lack of social responsibility is the defining attribute of the neoliberal experiment.

Regulatory capitalism

Most of us would argue that a system that requires extensive government regulation is a system that is not working and needs to be changed. That would have meant challenging belief so it was not done. The 1990s Gregory Report warned that if government adopted the free market option for aged care it would be impossible to regulate.

The risks and early market failures with neoliberal policies led to the development of a large centralised regulatory processes in all of the countries that embraced neoliberal policies. Many academics who have studied this think that regulatory capitalism rather than neoliberalism describes what is happening.

In addressing this issue I look first at the powerful informal processes of social control that I learned about when I studied social sciences. These were the fingers of civil society permeating business and government organisations. The neoliberal agenda has imposed strong formal process driven management structures across society. These have limited if not eliminated the capacity of informal processes to control conduct.

The importance of data and more particularly how it is handled and used is stressed. Because this has been done incorrectly some think that it is not useful and that regulation should not be anchored to objective data. Regulation without objective data exposes it to other risks. Ritualism, tokenism and the impact of credibility and social power on regulation are examined.

The reasons why regulatory capitalism fails are examined and the extensive failures across the USA, UK and Australia are documented. It is not that staff tasked with regulation do not believe in what they are doing. It is that this sort of regulation is not fit for purpose.

The way in which the neoliberal agenda intrudes into caring relationships and inhibits the empathy on which they depend is examined. At Aged Care Crisis we argue that all of these complex central regulatory processes would be better integrated and handled locally and be performed within the day-to-day activities and discourse in the community and nursing homes.

The Neoliberal agenda and care

The long tradition of responsibility in health care and the extensive ethical and philosophical writings are noted. The nature of professional relationships is discussed.

The extensive work that Professor Fine has done in studying the importance of caring relationships in aged care is briefly examined. He has studied its many facets and at every point he bumps up against the extreme difficulty of realising anything like this in the neoliberal aged care system. He presses for a *"citizenship-based approach to care"* and for local coordination of services. He indicates that *"the richness of academic discussion on the topic stands in contrast to its limited use in policy"*. But academic discussion is no match when faced by belief.

Funding Issues

The claim that neoliberal policies based on competition are the most efficient way of providing care is challenged by looking at evidence to the contrary in health care.

The ways in which resources and funding in aged care are diverted from care to the business of succeeding in this marketplace are documented. There is also a burgeoning industry of marketplace support and consulting services for both the providers and for residents. The threatened non-profit sector is spending heavily on consultants. Most of the additional money generated when additional funding was given in 2013/14 was diverted to these activities and to fuel consolidation. There is little to suggest that more nurses were employed.

The way money spent buying expensive nursing homes in order to obtain market share and grow evaporates when the market collapses is explained using examples from the UK and Australia. Consolidation in this way leads to the ascendancy of market listed chains and private equity. Both on average take more money out of care, staff poorly and provide inferior care.

Nepotism in the neoliberal family

The reason why appointments to inquiries and many other regulatory processes are dominated by true believers is explained. This is seen in the many aged care inquiries and reviews as well as the appointments to regulatory bodies. In other instances industry figures or organisations have been appointed to help design or otherwise manage government aged care systems. The consequence when government appoints those from a sector that has no sense of social responsibility is examined using examples

The Political dilemma and participatory democracy Creating a vision and pursuing it

In this section I divert to look at the extent to which neoliberal policy no longer matches the needs of a changing world and instead imposes ideas that do not fit the circumstances. It has been digging a deeper and deeper hole for itself and as a consequence the community has lost faith in our politicians and the structures of society. The great threat in the post-truth era that has resulted is the emergence of appealing but dangerous ideologies and the sooner we rebuild an involved society the less likely this will happen.

It is suggested that the way out for politicians and society is to rebuild civil society and that participatory democracy starting at a grassroots level has the potential to do so by reengaging citizens and so finding a way out of this situation. Community services are best suited for this and aged care seems to be the best vehicle for this.

A Community based aged care system

I bring this discussion together to support the argument for a community based aged care system and the role that aged care can play in developing participatory democracy. I do not attempt to describe in any detail exactly what this could or should involve. I want to promote it as an objective that should be seriously considered, discussed and worked on. It is a win win proposal in that it has large potential benefits for society as well as aged care.

Appendix

The issues we were asked to discuss in the document we were given prior to the workshop were not really addressed. I have responded to the issues in this section.

1. Introduction

As I indicated at the meeting I had experience of and issues with several of the disastrous 20th century ideologies and as a medical practitioner seen some of the consequences. I could not understand how the people who embraced them could do the things they did. I developed an interest in them long before I came to Australia. Since then I have examined dysfunction in the Health and Aged Care system in the USA and Australia. I make the comments here from that perspective. If we are to address the problems then we need to understand why they are occurring and how all this happened.

Aged Care cannot be considered in isolation. To come to grips with what is happening and examine possible solutions that will address key drivers of dysfunction in the system it needs to be understood within the context of what is happening in Australia as well as within aged care and similar sectors internationally. Because there has been no other venue for addressing these issues, I am doing so here.

Change

The difficulties in coping with change was discussed at our meeting. The most obvious example of a failure to change is the neoliberal theory and principles within which aged care policy has been developed. It is locked into obsolete 47-year-old 20th century ideas. Neither politicians nor bureaucrats have the courage or insight to find a way out. In the first 10 years of this century early steps were taken to move forward and rebuild our damaged society experimenting with different forms of participatory democracy.

An insightful young author writing in the Australian on 1st January 2000 expressed hope for the 21st century but fear that this hope would be dashed by the debris of the 20th. After the 2013 election Australia abandoned its steps forward (re participatory democracy) and buried its head in the debris of the past. We have had nothing but cycles of tired 20th century hubris since then. Citizens in western societies around the world have clearly had enough. Neither government nor an atrophied civil society have anything constructive to offer and all we get is more of the same. This is a dangerous and unstable situation (now christened the Post-truth era). Similar situations in the past have spawned bizarre ideologies that have threatened the world.

Innovation

While calling for innovation it is clear that the only innovation that is acceptable is innovation that fits this model. Those who advocate innovation so loudly are strangled by the past and incapable of doing so themselves.

This morning I turned on the television and was faced by a politician talking about selling policies to the public and shuddered – our problem encapsulated. Democracy is about debate in and with a civil society who then elect wise citizens to implement their wishes. It is not a stall where conmen compete to sell dodgy cars or services.

Civil society in disarray

Instead of supporting and building the structures of civil society so that it is equipped to engage and manage its affairs, current policy has seen government and market progressively manage, control and take over the role and functions of civil society. This has been described as a “hollowing out” of communities.

Without an engaged and well-structured civil society citizens are unable to develop social selves. Both society and its citizens are diminished at a time when our levels of intelligence are rising and we desperately need to build both so that we can confront and find our way through a challenging future.

Social discourse is neither competitive nor efficient and to make it either is to destroy it. It is best conceived and addressed using a constructivist approach. It is fragile yet holds the seeds of our future. It needs to be protected and nurtured. The primary role of government and of a responsible market is to serve society - to support and develop a society that grows and develops the capacity to manage the world that it is now in charge of. Neither has met this responsibility.

Aged Care trapped

Aged care like politics has been trapped in this 20th century pattern of thinking. Aged care policies are sold to society instead of being developed by it. The problem for us all, including aged care, is that civil society has been allowed to languish and is very poorly equipped for its important role. Many citizens don't even know what the word means and what its role is. Care is a central and deeply vulnerable concern for society and ultimately every one of its members. It goes to the heart of society and the close personal relationships that hold it together. Yet it is being packaged and traded like any other product on the marketplace.

Selling Choice

Citizens seeking security in nursing homes are not consulted or warned of the risks as they are traded with their nursing homes on the share market. They have no choice. Selling choice as a defining feature of government policies is hollow indeed when what we choose is so readily taken away from us by the government's policy of consolidation in a competitive marketplace.

A roadmap by Bentleys, a group working closely with government, shows that the number of providers of care will be halved by 2021 and only a quarter will remain in 2031.

When we consider the horse trading and reselling that occurs in the marketplace, it is clear that large numbers of people who have carefully selected a nursing home or home provider will be sold off to another company at least once.

These sales are likely to be to a private equity or market listed company. Extensive international data shows that these two groups staff far more poorly and fail to provide care much more often than every other form of provider. Australia does not collect and publish data on staffing or on care – a national disgrace.

As I read this I learn that Craigcare, a family owned business in Western Australia, has sold itself to Bain Capital - a private equity business. Family owned businesses, when founded by those with a mission of care rather than one of personal gain can be among the best performers (a 1994 study in the USA showed just this) but we don't know in this case. Private Equity are consistently the worst performers. What choice were the Craigcare residents given? Were they warned of the risks? The only escape for those who know the consequences may be to abandon friends and the security of friendly staff to find a safer place somewhere else. That is a big ask and a big choice when you are 90.

The Aged Care Roadmap

When I read the Aged Care Roadmap it started by nailing its neoliberal beliefs to the masthead. As I considered this I was reminded of Karl Marx's "Communist Manifesto". Marx saw women as common property to be shared around among men like every other property in Marx's communist system – without choice! Like Marx's ideas the lofty ideals expressed in the aged care roadmap are motivating and in this case desirable but its understanding of the human condition, of society and of the caring process are as way out as Marx's. It will require a vast amount of humanitarian motivation and dedication to attain these objectives using this system. These human attributes are not usually encouraged in a competitive marketplace where they seldom improve competitiveness. Loyalty to the interests of the company is now expected and there is little room to stray from the corporate profit mission.

2. A very human problem

“... “It's always the good men who do the most harm in the world”...”

Source: (Henry Adams 19th Century – Adam Smith also said it in the 17th).

All of us are motivated by ideas with which we identify, particularly when these ideas are successful in achieving objectives. We build our lives and our identity using these ideas and we soon think they are universally applicable. There is an imperative to protect our identity and the ideas within which it resides, ideas we believe in and hold dear. The pressures are so strong that belief almost always trumps logic and evidence.

One of the most confronting things for any of us is having to accept that the things we do and believe in and that we have devoted our lives to are flawed and are harming others. We have developed a multitude of strategies to protect ourselves and our identities from the evidence in front of us. We defend our ideas – even sacrificing our lives. Confronting these issues is extremely difficult and too often the response is anger and stigmatization (or labelling) of the messenger.

Example: I was invited as an independent participant to a meeting with senior members of the Aged Care Complaints system who came to Brisbane in response to multiple concerns about their decisions by a local community group. This was a short time before the Walton Review. The very motivated senior person who had been responsible for developing the system became very distressed and we had tears. The Walton review confirmed our assessment some time later. Unfortunately, Walton in recommending local resolution as the first step in addressing complaints, failed to appreciate the large power imbalance that exists in such situations. Her recommendations compounded the problems and the unhappiness of families.

There is no simple name for the problem of deeply held beliefs or ideologies in which well-intentioned people do harm and are unable to accept this. They are best considered as a social disease. I have coined the word *culturopathy* in an attempt to encapsulate this.

The response to criticism and to the allegations about the failures of the belief system, neoliberalism follows a classic pattern, particularly in aged care. The following are typical:

1. **Censorship** eg The gag clause prohibiting any criticism of National Aged Care Alliance (NACA) decisions. This caused National Seniors as well as Combined Pensioners and Superannuant's Association (CPSA) to withdraw from NACA.
2. **Controlling and massaging data to protect the belief system.** The accreditation process (Quality Agency) is a good example. They analyse the final figures in their annual reports in a way that reports only about one quarter of all those who fail an accreditation standard each year. They also present their data in a way that conceals the large difference that ownership type makes to the rate of failure. This has enabled government to repeatedly justify their policies by claiming that ownership had no impact on care.

Six years after the (then) minister was forced to correct her claims about the number of accreditation failures, the Quality Agency were still reporting data in this way. In 2014 they responded to data showing that ownership impacted on standards of care by claiming “*ownership type has 'no discernible' impact on passing accreditation*”. When challenged on their analysis they refused to respond and explain.

International data collected repeatedly since 1994 has shown that ownership type is one of the most important determinants of staffing levels and failures in care. (These issues are addressed on pages 24 to 27 of the Aged Care Crisis final submission to the Inquiry into Australia's Aged Care Workforce which I gave you after the meeting). This information challenges the neoliberal agenda and is ignored.

3. **Neutralising instead of engaging** with critics and addressing their concerns: Community organisations that had made major contributions to aged care but were critical of neoliberal policy lost their funding (eg. CPSA in the 1990s).
4. **Stigmatising and sacking** of whistle blowers – one of the most reliable sources of information. People don't risk their livelihood unless they are deeply disturbed by what is happening.
5. **Baring families** who complain from visiting residents. Threatening families who speak out with defamation lawsuits.
6. **Denial and criticism** of the press rather than addressing issues.
7. Claiming that exposures (eg. the rape of 90 year old residents in nursing homes) were **rare exceptions** in an otherwise world class system, rather than red flags to serious cultural problems in the system. That these red flags might be the visible manifestation of systemic failures in care was never considered or investigated.
8. Repeatedly asserting that we had a **robust regulatory system** in accreditation, something which had failed repeatedly in the USA. No other country has adopted it. In 2010 the Agency itself indicated that it was not suited to be a regulator and asked to be relieved of its regulatory role.
9. **Attacking academics** when their research revealed failures in care and they met their academic and civic responsibility by speaking out about this. Trying to get universities to sanction those who criticised aged care calling this irresponsible.
10. **Dealing with criticism:** Classical behavior is to see the **criticisms as the problem** rather than the failures that gave rise to them. This happens repeatedly in dysfunctional systems. In aged care the response is to attack the press for reporting failures and to call for more good news stories. The image and not its cause becomes the problem as is illustrated in these examples.

- a. The unpopularity of aged care nursing and the growing number of nurses vacating the sector is not addressed by fixing the culture within organisations and making working conditions rewarding. Instead the industry ran an advertising program to attract school leavers into the sector.

It is likely that these new recruits will later find themselves poorly paid in understaffed facilities where they are unable to provide the care they were trained to give and which the residents require. The image they were sold was an illusion. They will soon realise that the owners of their facilities are using the money saved by understaffing to expand their empires and make large profits on the share market. Too often staff in this situation take out their disillusionment and frustration on the residents who can be treated callously. The response to this is to blame the nurses and increase regulation.

- b. Instead of engaging with civil society to address the issues which have led to so much distrust, the Quality Agency advertised a position for "*Director Communications and Corporate Affairs Executive Level 2*" who will provide "*media advice, drafting media releases, producing social media and managing media relations*". Their role will include "*managing sensitive media issues to position the Quality Agency in a positive and accurate light*" and the coordination of a "virtual team". They will work with "internal and external stakeholders" in doing so.

It is clear that stakeholders do not include the community (civil society) that it is there to protect and inform when there are failures so that its members can make choices. To be fair though there is not much aged care knowledge left in civil society to engage with. While the appointee's role is to “*enhance openness, transparency and accountability*” the agency’s record in doing this (eg data handling) is very poor and this seems to be a good example of tokenism where words become a substitute for what is not there. The role in creating image and branding on the one hand and “openness, transparency and accountability” on the other are polar opposites and very difficult if not impossible to reconcile.

3. Social Responsibility

Probity as responsibility

As I indicated at the meeting, I first contacted the aged care probity team in 1994 about a rogue US company I thought might enter aged care. I received a fax boasting of the robustness of their processes. It seemed clear that this company would not be welcomed. In 1997 probity requirements (indicating responsibility and trustworthiness) were quietly abolished.

Getting blood out of a stone: In 1999 they were so embarrassed when I indicated that I wished to object to a company that had bought hospitals and intended to enter aged care that I had to have the matter raised in parliament and by the president of the AMA before I got a very guarded response revealing what had happened.

During subsequent years I lodged objections to other multinational buyers and little by little asked questions that extracted more details and the facile rationalisations used to justify what was done. I discovered that any criminal organisation could buy an existing provider of aged care without having to seek approval.

I was told that ownership had no impact on care and it was the key personnel in the providing company that was responsible. They were barred from employing anyone with a criminal history. When I remonstrated I was told that the rigorous accreditation process would protect our system and ensure that good care would be provided.

Apparently large for profit focused companies like BUPA would not interfere with management and would not fire and replace key personnel if one of its nursing homes was losing money. They would buy businesses without taking any interest in their management! The logic was confronting!

State probity provisions for health care: I had been investigating health and aged care in the USA and was able to supply some of the data used by the Foreign Investment and Review Board and by state probity reviews that caused five large multinationals to either fail probity reviews, be given a conditional license after a long investigation, abandon a planned \$1 billion investment in Australia, or sell an existing hospital and vacate the sector after a US\$4 billion fraud was exposed in the USA. In spite of inadequate government support and limited legal protection, all state health departments fulfilled their responsibilities to the best of their abilities and protected Australia from the excesses of the US system - but that is a long story!

Finding an explanation: I found it incomprehensible that a federal government where both major political parties had been supplied with the information given to state authorities would betray our citizens in this way. It was only later in my research that I discovered an article by the “most influential economist of the second half of the 20th century”, a Nobel Prize winning economist called Milton Friedman. It was published in a 1970 edition of *The New York Times* and was the beginning of the rise of neoliberalism. It was a tirade against social responsibility. Friedman asserted that for business to

have a "social conscience" was "unadulterated socialism" - for him obviously the ultimate evil. He concluded by describing "social responsibility as a 'fundamentally subversive doctrine' in a free society. The only responsibility of business was to make a profit to the extent permitted by law – described as "the rules of the game".

The appeal of this nonsense was enormous and during the 1980s Friedman became a hero and an adviser to Reagan in the USA and Thatcher in the UK. His ideas conquered the political and business classes across the world. Critics like Druker who remonstrated that the responsibility of markets was to serve customers were ignored. While some economists now describe Friedman's tirade as "The world's dumbest idea", the ideas and beliefs are still deeply embedded in marketplace and political culture.

Bringing this to Australia: In the 1980s aged care businessmen unsuccessfully took the government to court seeking to have what they now saw as illegal restrictions placed on aged care overturned. They regrouped and then bankrolled the Howard government's victory in 1996. Their leader, business tycoon Doug Moran, claimed that he wrote the Government's 1997 aged care regulations. Abolishing the probity requirements would have been at the top of the list and keeping them may have cost government his backing. Moran was rewarded with a large number of bed licenses in Victoria. A nationwide backlash forced government to back away from some of Moran's policy. He threw a temper tantrum and resigned from the liberal party. The big end of the aged care market cemented their power and have been in charge of the system since 1997 setting up a revolving door with government.

Deeply imbedded in Australian business' consciousness: The depth of this ideological commitment was revealed in the backlash and anger of the business community in 2003. After the HIH and One.Tel frauds, the government sought to impose some control on these excesses and encourage whistleblowers to report them. Business was soon "furiously lobbying for parts of the bill to be watered down". Business Council of Australia president and member of the Reserve Bank, Hugh Morgan, led the charge claiming that this was "an attack on the rule of law". Such fraud was "the inevitable flipside to business success". It would do the unthinkable and "put employees in conflict with the interests of their organisations and would turn them into 'state informers'". This "attack on the corporation as a vital institution in our economic life" was "the most important present problem".

Eroding Civil Society: The most revealing item here is the expectation that employees should place their loyalty to the corporation ahead of their civic responsibility to the community. This is an enormous and very important issue because capitalist democracies require an effective civil society to set the parameters within which its members including those in the marketplace legitimately operate. Adam Smith's warning about "this order of men" was clearly a warning directed at what we now call civil society.

Citizens vote as citizens and not as employees or even owners of businesses. In doing so they are expected to behave as responsible citizens and use their vote in the best interests of their fellows and not only their own self-interest. The Canadian analyst John Ralston Saul has written about the extent of this problem and the way it has undermined and destroyed civil society.

Robert Kuttner a long time neoliberal critic explained that neoliberal ideology is based on a misunderstanding of the nature of man. We are social animals with responsibilities to one another. We express this by developing social selves - identities based on what we do with and for others. When our loyalties and activities are constrained by corporate constraints we fail to develop social selves. We are all diminished by this, civil society is eroded and there is a loss of social capital.

Application to health and aged care: This issue has major implications for health and aged care because responsibility to the corporation too often competes directly with nurse's professional obligations to those they care for, placing them in a stressful position. Studies carried out in South Australia showed that as neoliberal management strategies were introduced into hospitals this created

difficulties for staff. Later studies show how the discourse among nurses changed. Instead of talking about the care of the resident, their discussion focused on their responsibilities to the hospital and in meeting their manager's requirements. Nursing became a task serving the hospital rather than a mission and responsibility to the patients.

Nurse's roles and their identity were increasingly directed to meeting the managerial requirements. They were socialized into a different way of thinking and seeing themselves. The late 20th century philosopher Michel Foucault has explained how power structures operated to do this and how they induced people to change their thinking and so regulate their own behavior to make it comply with expectations. It takes insight and great courage for nurses who have not succumbed to these pressures to speak out about failures in care.

A market that rejects responsibility: The consequences of patterns of thinking that reject social responsibility are only too obvious. Every vulnerability that can be legally exploited will be. Some persuasive arguments will be developed to make this not only permissible, but desirable – even essential. Logic and evidence are ignored and the successful become blind to the consequences of their actions for others. Legal boundaries, particularly those specific to vulnerable sectors designed to protect the vulnerable are soon transgressed and fraud becomes common. Successful practices become infectious as companies poach executives who have developed money-making strategies. Soon entire sectors are doing the same things.

It is no surprise that almost every sector where customers lack knowledge or are otherwise vulnerable has seen them exploited and misused. Employees that are vulnerable suffer the same fate. Vulnerability in the funding system is quickly detected and exploited.

These are not small companies but the large credible and greatly admired leaders in each sector. The banks, the financiers, analysts, brokers and anyone else giving the vulnerable advice on Wall Street have been recurrent and even continuous offenders. Many of the economic crises experienced are a consequence of such practices.

Problems in the USA

Health Care: In Health Care in the USA there have been an endless succession of scandals and frauds. During the period when I was studying the USA health care received more attention than any other fraud, more money was recovered than in any other sector and the FBI spent more time investigating health care than drug fraud. It was the most expensive system in the world and although it had many leading medical centres, the World Health Organisation found that it provided one of the poorest overall health services to its citizens when compared with other developed countries. Cuba, a much poorer country provided a better service. Aged care was not far behind and there were many scandals and frauds particularly in the large corporate chains.

A poster company illustrating neoliberal business practices: The first company I investigated when it entered Australia was the worst offender and I have so much information that I use it to illustrate the processes at work. Similar business practices were adopted in health and aged care companies across the USA.

This was the third largest hospital company and the most admired. Its founding chairman was widely praised and received awards, was invited to give prestigious speeches, made many donations and had university buildings named after him. It was closely associated with government where there was a revolving door. A US Senator who was defeated by Bill Clinton as presidential candidate was on its board. He was replaced by Jeb Bush, brother of George Bush and governor of Florida. His bid to become the 3rd Bush president was frustrated by Donald Trump.

The policies the company adopted were classic neoliberal management techniques followed to a logical extreme. They looked neither to the right or the left and had no understanding or insight into what they

were doing outside their understanding of business. They were more surprised than anyone when the first scandal broke.

What the researchers in South Australia found with nurses was considerably amplified in this US company by a management that insisted that everyone be a team player and sought out and excluded people who had any doubts about what the company was doing. Whistle blowers were destroyed. Thousands of employees identified with - and enthusiastically embraced, unconscionable practices. These were justified by bizarre rationalisations. Care was not evaluated and vast quantities of unnecessary treatment were given. Many including children were harmed. Because so much money was made from it everyone including nurses and the majority of patients believed that they were getting the best care. Hardly anyone spoke out.

The Governmentality explanation offered by Foucault applied not only for staff and patients but also for regulators. This company's facilities were accredited by two accreditation bodies. They were monitored by both state and federal regulators who visited regularly. Assessors from the big insurers who were being defrauded visited to check the insurance claims made. None saw anything wrong with what this very successful company was doing although it must have been glaringly apparent.

It was a policeman who in 1991 believed what the parents of a teenager told him rather than the staff of the impressive psychiatric hospital whose agents had kidnapped the normal but well insured teenager and admitted him. Senator Moncrief in Texas picked this up and investigated. I later met him and he gave me access to all the documents from his inquiry. What was found extended across the entire USA and I know of only one company in the sectors investigated that was not involved. A negotiated guilty plea was reached in 1994 and a large settlement was paid.

Australia's response: When this company entered Australia in 1991, a sect who were not very credible, supplied New South Wales Health Department with good verifiable information detailing what was happening in Texas. Like the regulators in the USA the department accepted the boastful and authoritative assurances from the company and granted hospital licenses. A year later, ABC Four Corners ran an expose. Concerned US citizens sent them more documents and when I saw the program I contacted them with more information. Initially indignant they soon realised their mistake. The rest of the story is interesting but not relevant.

Doing it all over again: Despite a criminal conviction and 5 years of close government oversight, this company adopted the same successful standard business practices in 2000. They had never accepted that these successful practices were responsible for what had happened. They rapidly became a success story. This time it was a priest who found out what was happening in 2002 and went to the FBI. This was the company's most profitable hospital. It had performed about 800 unnecessary major open heart operations, some on people who had simply been anxious and gone to have their hearts screened. Once again, a multitude of oversight bodies had done nothing about any of this. There were many issues in other hospitals. At the same time an economist at the New York Times who was examining financial performance discovered extensive "maximizing" of a loophole in the Diagnostic Related Group (DRG) funding. Vast sums had been rorted by this and other companies.

This might have been Australia: It is interesting that Western Australia's Health Department investigating in 1993 felt that Australia was vulnerable to this company's practices and considered heart disease to be at risk. It advised state government who ignored this advice. It was the CEO running the company in Australia in 1993 who was in overall charge of the US hospital in 2002. He negotiated contracts with the doctors responsible for the 2002 debacle.

I had suspected that he was negotiating contracts like this in a very profitable international hospital in 1993 but it was not until late 1995 that I obtained documentary proof. This was the final documentation that forced them out of Australia.

What happened in this company and in the USA provides a profound insight into the potential consequences of the neoliberal agenda for health and aged care

Aged care in the USA: Many of the same business practices were adopted in aged care and it is interesting that a number of those driving the process were trained in an aged care company owned by the company I described above.

The main difference was that in the USA actual data about care was collected and published but ignored by politicians and an ineffective regulatory system. Most of the action was taken by families who banded together to launch lawsuits. Massive punitive payments awarded by angry jurors did not stop what was happening. Sun Healthcare whose founder had been trained by the company above had been enormously successful in exploiting a loophole in the DRG system when providing step down care. Thousands of therapists were recruited from around the world to supply vast amounts of therapy while the frail aged were not cared for and suffered.

His impressive personality and the assertions he made were music to politicians ears. His thesis was that government should “butt out” and leave it to the market. There was plenty of fat (cash to be saved) in the system. You did not need trained nurses to wipe bottoms and shower residents. He claimed to be and was accepted as a world authority on aged care matters.

US aged care almost comes to Australia: When he brought his company to Australia, Minister for Health, Dr Wooldridge, announced plans to revolutionise health care through step down care. Bronwyn Bishop and even Christopher Pyne were soon repeating some of his assertions. The company failed a probity test to which I contributed material in Victoria and became bankrupt before it entered aged care.

Collapse in the USA: What had happened was that large numbers of companies were exploiting step down care and neglecting the aged. There was a building and feeding frenzy with extensive fraud of up to \$3 billion in one company. The government commenced fraud actions and closed the loophole. Incomes collapsed, interests on loans could not be paid and several large companies entered Chapter 11 bankruptcy. State authorities became alarmed at what was happening to residents in their states.

To keep nursing homes open, only token fines were paid. Government had little choice but to restore more funding so that the companies could trade out of bankruptcy. In his 1992 book ‘Marketplace Medicine’ Dave Lindorff described a similar much earlier situation where government was forced to bow to industry pressure in order to keep the service viable. This is now happening in Australia.

Aged Care in the United Kingdom

I have not studied the UK in any detail but I have information indicating that the system has been decimated by private equity which extracted large profits before funding was reduced and the market collapsed. The UK has been less ready to bail out failures. There are stories and television programs revealing appalling care. The Quality Care Commission (QCC) responsible for regulating the sector has lost all credibility and is heavily criticised. Those companies whose prime interest is profitability and who are not constrained by loyalty or responsibility are cutting their losses and vacating the sector. BUPA has sold its entire home care business in the UK. I have heard that it is selling its nursing home division but have not been able to confirm this. The last time I checked the QCC web site I could find only 50 (out of over 200) nursing homes listed, several with failures in care.

Issues in Australia

As in the USA almost every sector, in which there is any vulnerability, has been exploited. Financial advisers, then several banks offering financial advice, insurance and fraud in international money trading. The Job Services scandal, Vocational Training repeatedly, The Trucking Industry, Medibank Private, Loan sharks lending to the vulnerable, The Food industry and those employing people on working holidays or with 457 working visas.

There have been price fixing scandals in transport (Mayne Nickless), in cement and in packaging. The franchising companies are particularly likely to exploit and underpay vulnerable employees, often part time students. We have this happening in 7-Eleven stores, in Caltex and more recently in Dominos Pizzas. Even APCO which employs people to collect money for charity is this week accused of underpaying and abusing these employees. This sort of thing is ongoing and recurrent.

Health care: Health care has been spared some of these excesses because, unlike the USA, doctors refused to be trapped into contracts that limited their capacity to be effective customers and citizens. When Mayne Health adopted unacceptable practices that threatened care they used their market power to put it out of business. The standoff between the profession and the government's neoliberal agenda has destroyed trust and made real progress in the sector very difficult.

Aged Care: In a system like this we must ask what likelihood that aged care, a particularly vulnerable sector, can escape. While I do not want to paint the entire industry in a bad light it is clear that many residents and many staff are very unhappy about what is happening. What we don't know is how many and that is because we don't look. When failures are exposed we look the other way.

Recently disclosed staffing figures show how far we fall behind the US system where there are many failures. Our residents get half as much care from trained staff and overall 25% (an hour) less direct hands on care per day. The tasks are similar and take the same time. All of the information indicates that there are serious problems in our system and we don't look at them. Studies show that with this level of care there will be many instances of missed care and failures in care. A recent analysis by the nursing unions in cooperation with two South Australian universities confirms this.

Vocational training: As indicated above the training of level 3 and level 4 nurses by the fraud ridden vocational sector has seen many inadequately trained staff enter the sector. Government were forced to withdraw the qualifications that many of those already employed had received.

CDC: There is a significant risk of exploitation with Consumer Directed Care in this sector and with the model proposed in the roadmap. The Mantra of choice and more choice will be as appealing to providers as to the residents who are persuaded that this is what they will actually get. Davidson from Macquarie University is optimistic that the home care sector will continue to be dominated by nonprofits although he is worried by the franchising model. In my view there is a risk that the extreme right will regain power. If someone decides to marketise and consolidate providers in the sector and does this in the same way that was done by the Abbott government for residential care then this could change rapidly

Franchising: I am worried that there are at least three international US based franchising companies already exploiting the opportunities available in home care. There was another US group that was advertising across Australia for untrained staff, which it promised to train itself. This was during the period when Abbott was energetically selling home care as a competitive market. It seems to have retreated.

The mode of operation of one of these Franchising companies was described in an article entitled "Profits are Golden" in 2012. It claimed that its average client billings were nearly four times higher than the industry average and that it was capable of generating \$1 million in revenue from only 18 clients. Franchisees will find the "most cutting edge business model in senior care with its focus on consumer marketing and branding" "All forms of consumer marketing are a cornerstone of our business". One wonder how far franchisees will go when the reality does not match the expectations they are given.

The worry in these franchised businesses is that we might see the same exploitation of staff that we saw in the examples above. This would have had little impact on the service provided to customers in a 7 Eleven store. The impact in aged care would be very different. Underpaid and disillusioned staff lose motivation and readily become callous and uncaring.

Maximising: As I indicated at the meeting this has been ongoing and recurrent in aged care. Instances include

- **2012:** Nurses in the department of health spoke out about the complicity of the health department in “ticking off” on blatant rorting in aged care. Residents were treated like “cash cows”. A company providing billing advice advertised that it would find the “hidden goldmines” in their client’s facilities. This example is a red flag to a cultural problem and illustrates the lack of any social responsibility. The response of the health department was to “educate”.
- **2013:** Elder Rights described instances in Home Care where over 40% of resident’s packages were taken for administration and case management.
- **2013/14:** Widespread over-claiming of the dementia supplement. Intended for 1-2% of the most difficult cases over a quarter of all facilities claimed for over 20% and 6% of homes claimed over 50%. The government had to abolish the supplement to stop this.
- **2015:** Fees of between a third and a half of the home care packages taken for case management.
- **2015:** A massive blowout in the aged care budget as a result of “bogus claims” for high level care in nursing homes causing government to cut back on funding.

The exploitation of complex funding models is not unique to Australia. It is endemic in the USA. It is impossible to design watertight systems for managing and controlling complex and unpredictable reality. It requires a “social conscience” and that is “unadulterated socialism”. Strong competitive pressures ensure that when one provider rejects social responsibility in favour of profit others must follow in order to compete. It is only a small step from exploiting the vulnerability of government to exploiting staff and then vulnerable customers.

4. Regulatory Capitalism

Neoliberalism policies and the abandonment of social responsibility have put large numbers of citizens at risk. Governments have spawned a rich mix of regulatory systems in an effort to contain this. While some are by government a policy of small government has seen the rise of government appointed independent regulatory bodies. At other times regulation is contracted to the market. Industry itself has set up self-regulatory systems. The concept of “small government” has become a token where the words are a substitute for the real thing. The use of semantics obscures the fact that government is paying for and controlling vast numbers of others to do its governing. If it is not working then clearly money is being wasted.

The mid 1990s Gregory Report warned that if the free market option was adopted then **“neither the current standards monitoring system, nor any alternatives considered, would be able to prevent the diversion of funding from nursing and personal care to profit”**. The warnings were ignored.

Criminologists like John Braithwaite challenge the use of the word neoliberalism to describe the last 40 years. For them the defining characteristic of the period has been the struggle to regulate capitalism and they talk of Regulatory Capitalism. They do not question the need for this but instead seek to find ways to make it work.

Failed systems: To those who look at society as an entity, a social system that relies on government regulation to constrain it, is a system that is not working. Sociologist Eva Cox has indicated that in a civil society regulation rests lightly and is seldom needed. This is because citizens control one another in the everyday discourse of their day-to-day interaction by challenging a lack of social responsibility. In social animals it is this interaction that is the primary form of regulation.

Formal regulation is important in setting the limits of acceptable conduct and as a backup for dealing with individuals who escape the normal processes of social control. However, it is not an effective way to control systems that are dysfunctional.

Informal structures: When I studied social sciences the informal structures within organisations were thought to be very important. These were the relationships and the discourse between people in these organisations as they went about their activities. It was here that issues were discussed and many decisions were made. It was these more informal structures that informed the formal processes and made them work in a responsive and human way. Problems created by the more rigid formal system could be managed.

Braithwaite describes, but does not comment theoretically on, the way the pattern of relationships between regulators and facility staff in both the USA and UK worked to make two poorly designed systems work and accomplish beneficial outcomes. The system he helped develop in Australia in the 1990s built on this insight. My issues with Braithwaite are that his criticism of the US regulatory system led him to underestimate the importance of accurate data and he did not place sufficient weight on this. The undervaluing of data places his proposals at risk of tokenism and of the power and credibility processes described by Foucault that I saw in the USA when I examined the system from a different perspective. This is readily apparent in his more recent 2005 book about regulating aged care. His valuable contribution should be complimented by a wider view of society than that of criminology. It can be built on and developed.

Neoliberalism and informal structure: As an outsider looking in, I see the managerial focus of neoliberalism as directed to highly structured, rigid, process driven and hierarchical formal structures. It ignores the informal structures. These are no longer valued, are unable to influence the formal processes and cease to be effective. The formal structures are complex and focus on process rather than outcome. They lead to process based decisions and activities. These become task focused and impersonal, unable to cope with individual needs and variability. This is the very opposite to what is required in the delivery of human services.

These informal structures and the discourses that make them work are the fingers of civil society that spread through the structures of society whether they be government or market. It is here that the values and norms of society are brought into play and that social responsibility becomes a key consideration. In a balanced society it is the interaction with informal structures that influence the formal structures and constrain their inhumanity and make them behave responsibly.

Neoliberal management undermines civil society as it restricts the development of social selves and responsible citizenship. When civil society abandons its values and responsibilities these informal structures can lead to self-interested and often dysfunctional silos within organisations – even those within civil society.

The collection and use of data: The collection of accurate data is essential if we are to contain our human tendency to escape into illusion and self-deception. Authenticity is retained when claimed identity is anchored to something real. It is how it is collected and how it is used and interpreted into everyday life that is important. The problem in the USA was not the collection of data but what was collected, how it was collected and how it was used – taking it out of the everyday context where it belonged.

Data about care and quality of life is needed by nursing homes and providers if they are to manage their nursing homes effectively and to counter the risk that staff at all levels will escape into fantasy and identify with branding and image rather than the world around them.

Accurate data is essential for any form of policy making and to expose and confront the illusions that characterise all ideologies.

Accurate data is an essential if markets are to work for customers and society. But data alone may not be enough. In most sectors more is required. It is how this data is handled and used in the many different contexts where markets operate that is equally important.

Neoliberal systems seek to create a positive image so that marketing and branding become important. Words with strong associative meanings are used to clothe their activities. On one web site offering management advice the word quality appeared 80 times on one page alone - and even accreditation is now performed by the "Quality Agency". Positive imagery readily becomes a substitute for what should be there.

Underlying processes: Braithwaite describes the way regulation can be undermined by ritualization so that it simply becomes a formula. My concern has been with tokenism in which words, processes and even structures become tokens for what is absent. A hospital administrator from the company I use as the poster example for what I call a "culturopathy" boasted to me about the robust Quality systems that his company's hospital had. They were actually present on paper but the quality committees appointed in these hospitals seldom if ever met. They served as tokens for what was not there. In highly managed systems "form" comes to replace "substance". Without real verifiable data to constrain them managers eager to build their careers readily embrace tokenism – a mechanism many of us use to escape from the need to be authentic when developing identity.

The failure of regulatory capitalism

It is only too obvious now how true Gregory's predictions were. The very nature of regulatory capitalism creates problems. Its complexity, structure and focus on process make it rigid and unresponsive to individual needs. Of necessity its contact with local situations is infrequent, formal and structured. Most of this contact is with credible and powerful organisations. They control the discourse and the assessors come to think like them.

On the occasion I described when we met with the complaints system staff, an assessor was asked what the nurses involved had said about an incident. He replied that he had not interviewed them because they had been fired and were therefore not credible witnesses. Management's explanation was accepted.

In another instance, a trained nurse complained to the complaint system about a pressure ulcer. She was told that these were not preventable and her complaint was discounted. This nonsense could only have come from industry trying to explain away their failings.

International Regulatory Failure: In the USA the aged care regulatory system has been extensively criticized. In that country regulators are appointed by politicians who receive large donations from the sector and play golf with owners. These owners can be in a position to influence the hiring and firing of regulators. In the UK the Care Quality Commission has been heavily criticised and is thought to be hopelessly inadequate.

Failures in Australia: In Australia the multiple market failures described earlier point to the inadequacy of ASIC the market's regulator. Few have much confidence in its capacity to detect or control these practices.

In aged care the regulatory system is centralised, fragmented and ineffective. The *Aged Care Funding* system is complex, inflexible and process driven with many falling through the cracks. Providers have repeatedly exploited weaknesses in the system to maximise from both government and residents.

The problems with the *aged care complaints system* have already been addressed. Government itself has been prepared to "tick off" on claims for money in ways that its own staff found unacceptable. There is little confidence in the *accreditation system* and it is not fit for purpose. Then there are the government run *visitors scheme* and *advocacy services*. They are in a position to see what is

happening and speak out. They are rarely mentioned in press reports or by those who complain to Aged Care Crisis and do not seem to have been involved. All these organisations do not work well together.

The impact on relationships: Caring is based on empathic relationships. The nature of these relationships directly impacts on the sort of care and the quality of life. When things are process driven and task focused then it becomes increasingly difficult to imagine the life of the other (sometimes described as getting under their skin and walking around). Without the insight gained by this it is very difficult to develop empathy and the sort of relationship required.

As the studies in South Australia show the impact of neoliberal management is to direct the focus away from the residents so that care becomes task focused rather than person focused. The pressures generated by the cultures that develop and the use of competition and efficiency in driving profitability all have a profound impact on the way that staff relate to their charges and the development of empathic relationships. Forming caring relationships takes time and attitude.

A much better way: Aged Care Crisis believes that all these services would be far more effective if they were integrated and delivered locally through or in close association with the community and the artificial divisions between them removed. They need to be closely associated with or provided through the community services that are in regular contact with the nursing homes. They should become part of the everyday discourse that monitors and controls our behavior. Government's role should be to help build capacity, to mentor and support and to assist in difficult situations where this fails.

5. The Neoliberal Agenda and care

Health care: There is a 2500 year history of social responsibility in health care. At one time doctors moving between countries would obtain a certificate of good standing from their own medical body so that the new country would accept them and allow them to practice. I obtained one 60 years ago when I travelled to the UK to continue my training.

Vast amounts have been written by philosophers and medical ethicists about the nature of professional relationships and the power imbalance created by knowledge. The professional relationship is a close and intimate one based on mutual trust and respect. Ideally the trusted professional gets under the skin of the patient and walks around there. He is entrusted with intimate and sensitive knowledge. This understanding allows the professional to use his knowledge to guide and assist the patient to make a wise and sensible decision. This sort of relationship takes time and patience and in a high pressure system must sometimes be rationed. The impact of neoliberal thinking on these relationships is profound and dangerous. This is readily apparent in the USA.

This ethic of responsibility and trust is the foundation of all humanitarian professional services and they are all impacted negatively. In fact differences in power exist in all relationships and the way they operate there is negotiated in discourse. It is the responsible use of power for the benefit of others and society rather than for self, employer or for the exploitation of others that makes civil society possible. To deny it is to deny and destroy society.

Aged Care: Professor Michael Fine has written extensively about these issues in aged care. In 1992 his analysis warned of the risks. He indicated that the proposed privatisation offered no cure for the problems in aged care. His studies have looked closely at the way care is provided. He has explored the nature of the caring relationship in depth and the sort of system that is needed to serve this need. In 1999 he noted that *"the combination of public funding and private enterprise care provisions is a rather potent mix, and not one which can easily be advocated"*. And *"the potential value of an ageing population in the formation of social capital - - - would not be realised in a system in which profit and individual gain is the main motive"*.

Fine was concerned about the lack of coordination at the street level as well as in government policies. He wrote about new models of organisation that “fly in the face of what has been orthodox wisdom”. He concluded one paper indicating that “*if local coordination is to succeed then relations with government bodies should facilitate, rather than impede, their development as was happening. Funding must be supportive of local coordination*”. **This is a key message and Aged Care Crisis vision for aged care is directed to exactly this.**

Over subsequent years, Fine’s research explored the nature of caring relationships addressing issues of dependence, independence and inter-dependence. His subsequent papers over the years explore the issues surrounding care from many perspectives. He looks at rights, morals, responsibilities, justice, empathy and many other issues. He talks about the difference between “caring for” and “caring about”. He argues for a “*citizenship-based approach to care*”.

A major focus of Fine’s research is the importance of workers and the consequences of the neoliberal agenda for them. Central to this concern is the relationships that are needed. In 2012 he indicated that “*care needs to be reframed within a discourse of citizenship, rather than markets, for it to become a means of self-determination and social participation for both carers and cared-for*”. Choice was possible without marketization.

Fine studies and explores the changes that have been occurring in society and the impact they have had on care and the caring relationship. In his writings he repeatedly comes up against the impracticality of attaining the sort of care that is needed within the socially destructive framework of neoliberal thinking and policy. He shows how the neoliberal agenda clashes with care as a relationship and makes it very difficult to attain. He is particularly concerned at the impact on workers considering it a major impediment to the building of relationships.

In a paper ‘*Ageism, envy and fear*’, Fine explores the nature of ageism and its consequences. He looks at our longer life expectancy and the opportunities for “meaningful social engagement and personal development”. He explores the problems for this created by current policies. In a presentation “*Rethinking Care for the 21st century*” he contrasts the negative economic view of care as a cost threat and a burden that is intrinsic to neoliberal thinking, with the opportunities and benefits for society that an increasingly active ageing community can offer.

Fine explores the nature of power in the caring relationship with great insight and in depth explaining how this plays out within our understanding of dependence, and interdependence.

Repeatedly in his work Fine draws on many sources and the work of many others. He looks at the nature of care and what is needed and on each occasion his arguments hit their heads against the difficulty or even impossibility of attaining anything like this with current policy. In 2015 he wrote a chapter about the cultures of care in a book. He concluded by indicating that “*the richness of academic discussion on the topic stands in contrast to its limited use in policy*”.

Addressing these issues: What Fine is advocating is what Aged Care Crisis is trying to achieve. We are attempting to open debate in an attempt to find a way out of the current impasse. We have suggested and argued for a community based aged care system and are exploring ways in which this can be attained. The major barrier to a successful aged care system is the government’s policies and not the difficulty in funding aged care.

6. Funding issues

I understand that at the Melbourne workshop you spoke about the difficulties in funding aged care and the lack of sufficient funds. The Neoliberal’s claims to financial efficiency particularly in sectors like health and aged care have puzzled me. They have certainly been the most efficient at generating profits but have been the most expensive and inefficient way of providing care.

Ideology and common sense: Human beings and the societies they create are complex entities. They both contain many qualities and attributes, which can be drawn upon to help us manage our lives. They balance and constrain one another so enabling us to find our way through a complex world. While it is not the first time this has happened the idea that you could pick out two of our attributes, like competition and efficiency, separate and isolate them from this rich mix of properties and ideas that they operate within and then give them Godlike status, is as ludicrous as the idea that a society can function without responsibility to each other and the whole. Large sections of our society now do so. This was always going to end in tears.

Taking anything out of its context and examining it in isolation has been a major problem in aged care. It can be seen in the philosophy underpinning the accreditation process and in the way that data is collected and used in the marketplace (eg USA) – the Campbell effect I mentioned at the meeting.

The claims to cost benefit and efficiency: I know of no data based studies that show that a competitive market is the least expensive and most efficient way to provide aged care. All of the evidence shows that the more competitive and profitable an organization is in aged care the poorer the staffing and the worse the care. By any standards it is the most inefficient system.

In Health Care the USA is by far the most market driven and profit focused system in the world. Far more money is spent on a system that gives one of the poorest overall health services in the developed world. Studies have shown a higher mortality and morbidity when comparing several services (eg, Renal dialysis) provided by for-profit when compared to nonprofit operators. There is clear evidence that aged care behaves similarly.

Resources drained from care: If we examine the market we find that significant resources and funding are diverted from care to the business of the market. Funds are spent on marketing, branding and employing consultants.

If we look at what happened with the *Living Longer Living Better* reforms in 2013/14, it is clear that little if any of the additional money given by government and extracted from customers went to care. In the for-profit sector it funded a frenzy of buying and selling particularly by private equity groups who had been waiting for this to happen. We had a repetition of what happened in the USA and the UK where excessive prices were paid for nursing homes in order to secure the advantages of size, market dominance and control. In many instances, staff were cut to the bone and food suffered. Risks were taken. The funding system was rorted and residents were faced with extra charges.

Money evaporates: When the government stepped in to stop the rorting, loans could not be met and the market in nursing homes collapsed. Worst of all these companies had been allowed to spend the bonds which should have been securely invested on growth. The additional funding from the *Living Longer Living Better* reforms had gone up in smoke and the bonds paid by residents were now guaranteed only by vapourware. The government has been forced to start negotiating with industry to find a way of funding the system that will not be rorted and of protecting the service given to residents lest there be another set of scandals.

Consequences: The government's policy of consolidation has resulted in the ascendancy and dominance of the sort of provider that both international and local data shows provides inferior care. Other than benefiting the risk-taking businessmen, the only rational reason for doing this is to create the sort of large profit generating companies that will reduce our national debt by competing in China and other countries (ChAFTA). If it were not so incredulous we might conclude that government was sacrificing its redundant elderly population in order to shore up our economy.

Nonprofits: The not-for-profit sector is well aware of what happened in the USA where nonprofits that provided care rather than profits struggled and were gobbled up so rapidly that the corporate gobblers were called Pacmen after the computer game. Only those who behaved like for-profits survived. Nonprofits in Australia feel and are threatened.

If we look at the speakers at most of the recent ACSA conferences and meetings they are dominated by marketplace advisers and consultants who are telling them how to survive in this market and offering their consulting services. There are lawyers, marketing and branding experts, experts who provide training for staff who meet with families and sell their services on guided tours, staff management experts and many more. It is clear that the extra funding from the *Living Longer Living Better* reforms has gone to a multitude of impressive consultants rather than the care of residents.

Tokenism: If we look at discussions within this sector we see the conflict of cultures that has occurred. This is most apparent in the arguments that broke out when it was suggested that LASA and ACSA should merge. We can also identify the Foucault effect. Like the nurses studied in South Australia the focus of discourse has shifted. There is far less attention to care. It has simply become a task within the business. The discourse has shifted from mission and care to the business of competitive survival. Resources, manpower and attention follow the discourse. When this happens tokenism replaces what should be there. Care readily becomes little more than a word, which is promoted and assumed to be there. There is much to suggest that there is ever decreasing substance behind the word.

A burgeoning industry: These policies have spurred a growing industry of advisers supporters and subcontractors (eg. Employing a specialist to manage funding claims in order to maximize income). There are large numbers supplying services to support not only providers but also to give legal and financial advice to prospective residents and their families. Others specialise in helping families to find providers that will give them what they want. There is a coterie of competitors offering web based and other forms of feedback from residents in order to inform others – so many that there is too little to be meaningful. These services are at risk of gaming, kickbacks and a variety of other influences that threaten their utility.

Where does the money come from: The money for all of this market activity comes from many sources but ultimately the bulk of it comes from the pockets of residents and the money paid by government. We should not forget the large costs of the regulatory system, ACFA, Complaints, Accreditation, Visitors, Advocacy etc. There is a vast industry parasitising the sector and the bulk of this effort and expense has little to do with care and that which does is not very effective

The obvious: Anyone who wants to claim that this system is an efficient and cost effective way to provide care has a lot of explaining to do. Many of the claims made have more to do with belief than fact. Diverting most of that money to employ more nurses and focusing attention back on what they do would be an infinitely more efficient way of providing care.

Market risks: As explained earlier private equity and the share market are high risk enterprises supported by those who are prepared to take risks in the hope of large profits but the greatest risk is to the residents who were not informed about the risks they were running and had no choice. But there is another side to this, which explains where the money has gone. Those who are in the business to make large profits and have no sense of social responsibility jump ship and depart at the first hint of trouble.

In the UK where Blackstone private equity bought the UK's largest nursing home provider and restructured it in a high risk unstable manner to make it profitable, before selling it at a big profit. At the first economic downturn it collapsed and entered bankruptcy. BUPA has been selling its aged care businesses in the UK where the system is under pressure. In Australia, Estia listed successfully and was making large profits. At the first hint of trouble its large private equity investor, its founder as well as several board members took their profits and bolted leaving others to sort out the mess they had created.

Like private equity owned Four Seasons in the UK, private equity owned Allity missed the boat and failed to list its business on the share market in time. It will suffer huge losses if it sells now. Its strategy

will be to keep costs to a minimum and then boost profitability as soon as the market turns around so that it can get out.

The government has placed the entire sector at risk. There is no one to pick up the pieces when things go wrong. A disengaged community would not have the skills or interest to do so.

A community based system: A community-based system would contract care to stable and responsible operators with whom they would work closely, building their own knowledge. This would be low risk and supported by long-term investors rather than entrepreneurs playing with high risk stakes. In hard times there would be a whole still healthy generation of socially conscious more knowledgeable seniors able to help support those who needed care. This is care they themselves will need in the future and they will want to maintain it.

7. Nepotism in the neoliberal family

In an ideology true believers feed off each other. Those who are doubters or disagree are seen as untrustworthy and unreliable. As a consequence an establishment is created that is used to fill important positions and give advice to government. On one occasion in the past, a bureaucrat claimed that there was nobody else suitable for an important appointment. There is some truth in this because civil society has languished and withered as markets have been structured and grown. They no longer have the expertise. The caring professions that have challenged policy are not trusted. There are many examples of conflicts of interest, of the fox guarding the henhouse and even of the fox helping to build the henhouse.

What has resulted is that everyone who is anyone sees things the same way and nonsense becomes so obviously true that it is never challenged.

Aged Care Inquiries and reviews: Over the years here has been an endless cycle of inquiries by politicians, government, government appointed bodies and large commercial organisations contracted to do so. These have been largely led by economists and businessmen who would have had little insight into the sector. Appointees to these reviews have mostly been members of the family. This has ensured that with the possible exception of the Walton Inquiry there have been no unexpected surprises and policy has never been challenged.

Submissions that raised issues that challenged were largely ignored, perhaps because they were seen to lack credibility. At no stage have these inquiries examined actual data about standards of care or quality of life so that the outcomes, which might have challenged what was done, were never confronted and had no impact on the decisions. As a consequence there has been repeated tinkering with the system and any changes that have been made have been made within the same neoliberal paradigms. While the recent roadmap makes new proposals and has modern 21st century ideas, its implementation is locked in obsolete ideas.

The foxes guarding the hen house: Industry members have been generously represented on the various government bodies including the accreditation agency. When it became the Quality Agency, the CEO of LASA the industry group representing the industry, moved over to become CEO of the Agency.

A lawyer whose business had been advising the industry and who had been a director of an aged care company was appointed to be the Aged Care Commissioner – the arbiter of any disputes or appeals from the Complaints system. Nursing staff from one of this company's facilities had lodged a complaint with the complaints system. When they found out who the Complaints Commissioner was, they were terrified that their identity would be leaked and they would lose their employment.

While these people probably did behave well and tried to act objectively their thinking was rooted in their neoliberal backgrounds. Objectivity was not seen to be preserved and such conflicts of interest would once have been heavily criticised. In an interest driven sector where social responsibility is no longer expected situations like this are doubly concerning.

The foxes building the henhouse: At the workshop I referred to the case of a BUPA executive who was appointed to be an independent expert for the Aged Care Financing Authority (ACFA) in 2012. He advised on setting accommodation payments in residential aged care. He then moved on to become CEO of Estia Health Care. This company was alleged to be the leader in aggressive exploitation of a loophole in the funding system, which caused a massive cost blowout.

The previous CEO of the Accreditation Agency (2002 - 2013) was snapped up by Estia Health as Chief Quality Officer initially, now Chief Policy and Regulatory Officer. His role is ensuring regulatory, compliance and reviewing core business policies across Estia's network of aged care homes. He will be well placed in advising Estia of what to do and how to avoid regulatory action.

Another example is more interesting. A CEO from LASA joined the accounting group StewartBrown as director. StewartBrown collects information from the sector in order to inform it and for the sector to use in lobbying. It also advises individual companies so works closely with them.

StewartBrown's reports have for some years included figures and a chart of direct care staffing levels. In 2016, the year in which a senate Inquiry into Australia's Aged Care Workforce was initiated, it added a chart to one of its reports which included staff from hotel and other services which are clearly not direct care and which are explicitly excluded from "direct care" terminology even on the MyAgedCare website. It labelled this as "direct care". This chart added nearly an hour of extra direct care for each resident each day – approaching levels in the USA. But this extra time was not direct care.

Many complaints had been made to the Workforce Inquiry about our staffing levels. This chart still labeled direct care was tweeted and copied to senators 48 hours before they were due to interview industry representatives. The same figures were used by an ACSA executive to counter criticisms in an industry news report that alleged deficiencies in direct care.

Staffing levels are the most important determinant of care and millions of frail elderly depend on this care. One must question whether any social responsibility was displayed here and what the consequences for large numbers of residents would have been had these figures been accepted by the senate and policy based on them. Fortunately, steps were taken to ensure that senators understood what had happened. This seems to be the way the industry now thinks and behaves.

Soon after this StewartBrown was awarded a \$203,775 contract (number CN3394134) to carry out a "*Peer Review of Aged Care Financing Authority (ACFA) data collection and reporting activities*". This will give it a good look at the way in which the ACFA operates. Will it use its findings when advising its provider clients on ways to become more profitable.

There is even a seniors member of the family: When NACA was formed the largest seniors and pensioner groups resigned because of a gagging clause. The smallest group remained and became one of the family. It has become the government's community voice, its CEO standing close to the minister and making announcements on behalf of government so giving the appearance that community representatives were watching and approving. This CEO even announced the trade deal for Australia to supply aged care services to China. It receives generous government funding and is contracted to collect consumer views for government and to inform community. Other groups are ignored and at worst, blocked from participation including workshops.

The importance of alternative opinion: In a sensible society and in a sensible democracy policies are examined from multiple points of view. Critics are a valuable resource because they more readily identify problems so that these can be addressed and corrected. In a system controlled by ideology

this does not happen. In a civil society in which there is constructivist discourse as many different perspectives as possible are canvassed.

8. The Political dilemma and participatory democracy

Creating a vision and pursuing it

Politicians embracing neoliberal policies have been digging a deeper and deeper hole for themselves. They are trapped by a system that is not working for citizens or society and they have nothing to replace it with. It is probably a mistake to see their repeated claims, their aggressive assertions and their attack on their critics as a deliberate attempt to mislead the public. They are trying to convince themselves and justify what they are doing. Under threat we readily respond by clinging to the past instead of engaging with the future. It is clear that communities across the western world are less than impressed with all this. They are tired of being misled and of being sold hollow policies. Some examples illustrate the problem.

The burden of labour: Technology is finally reaching its promised goal of relieving mankind from the burden of labour - the endless pressure of the treadmill driven by competition that has trapped us and limited our vision of what might have been possible. As this progresses mankind will finally have an opportunity to reach its potential by building and developing itself and its society.

We are social animals with the capacity to manage our destiny. Instead of embracing the opportunities there is endless anxiety and rhetoric about finding more jobs. Education is focused on training for jobs rather than education for citizenship, which is neglected.

The burden of the aged: Because we are locked in obsolete ideology the long sought after goal of a longer and healthy life is seen as a burden and a threat for society instead of an opportunity. Instead of retiring and contributing seniors are seen as a problem whose solution is to make them work for longer. As Fine explains under the present system they are unable to reach their potential and make the large contribution to society they are capable of. Neoliberal belief locks them out.

A threatened world: We live in a world that is under threat from our activities. Instead of conserving our world's resources for the future, the pressures in the neoliberal system are directed towards consuming and destroying and it is the future of the environment we live in that is threatened. We struggle to save our world in a system that (as in aged care) makes this very difficult to do.

Imposing change: When change is imposed then it is experienced as threatening and we behave responsively and hold onto what we know. When change is created then it is exciting and rewarding rather than threatening for those who do so. When society needs to change then it is society's engagement and involvement in doing so that makes it happen. This is the difference between a responsive society and a constructive one. What is now called constructivism is an approach that informs education where contexts are created than encourage it.

The debris of the past: Economic theory and political thought is locked in the 20th century and conceived in terms of capitalism versus socialism, left vs right, a dichotomy we struggle to escape from. Instead of using the knowledge and understandings of the past as a springboard for the future theories are stuck in the mud and buried in the debris and can't get out. While it talks of innovation it is incapable of it.

Economy and markets are humanly created structures. We can design them and make them work for us. Instead of serving and adapting to society's changing needs society is imprisoned within the

constraints of an economic theory that is taking us in the wrong direction and society's development as a humane endeavor is being truncated. To survive our economy is cannibalising society's more vulnerable members and that is not acceptable.

Finding a way out of the hole: To move forward we need a vision of what we would like to have and to be - an idea of where we want to go. Without an engaged civil society there can be no vision and every change is threatening. What is required is a well-educated (as opposed to trained) civil society that is structured to engage and organize itself and our country. Democracy requires that politicians grow and develop within this society, and work with it to build the future. Politics and government should be an extension of civil society and reflect its values and its well-debated views. Civil society should be seen as comparable to the informal pattern of relationships and discourse that makes formal managed structures work, but it is government that it should control and make work.

We can visualise a society that is first trained to carry out the essential work that still needs to be done then as its members mature they move on and grow through further education and involvement in the building of their communities. Instead of branding and image creation the primary role of modern digital media might be educational engagement and informed discourse across society – a context within which constructive engagement occurs.

Participatory Democracy: The participatory democracy movement was an important move in the right direction and its demise in 2013 was unfortunate. It is something with which society can identify and within which they can restructure their world and engage. It is a way out of the Post-truth era. It offers those who are grabbing at illogical straws a way forward that they can embrace. It offers a way out of the hole. This should start at a grassroots level in communities so that citizens are engaged in the affairs of society at this level and civil society can then be built on this. Governments should be supporting this. The educational and other initiatives would then build on this.

Within such a system the role of academia, governments, economists and universities is to step out of their silos and engage with community in order to build knowledge, broad insight and capacity. An economy should build and enable society and not constrain it. By engaging with civil society we can create the sort of economy and market that does what we want, and which is not an objective in itself. The objective for the future must be to sustain a society where in time most may do much less work but where they would have important and fulfilling roles to play and where well developed social selves would be the norm. Our citizens might be much better off with a stable economy built around our community than an unstable one that depends on risk takers for its survival and our wellbeing.

Aged Care and participatory democracy: Aged care is a grass roots activity that affects every person, every community and every society. It is particularly well suited to an approach like this and is an excellent venue for the development of participatory democracy.

The threat of ideology: Neoliberalism has been repeatedly challenged by social thinkers in the USA and Australia. The arguments were not confronted and addressed and have never been. This is how ideologies develop and why they are so difficult to combat.

The history of the 20th century is the story of endless unspeakable horrors. These were a consequence of our weakness for ideologies. This remains a very threatening problem in the 21st century,

A constructivist setting within a civil society, when it works, ensures that multiple points of view are heard and all arguments are confronted so reducing the risks of an ideology developing. It might even bring back the 19th century quality "wisdom" - the ability to assess and consider from multiple perspectives and then choose sensibly. That attribute was lost in the blood stained mud of the 20th century! If we are to move forward then the problem of ideology is the first and most important issue to be addressed. The whole world is still threatened.

“The more eyes, different eyes, we know how to bring to bear on one and the same matter, that much more complete will our “concept” of this matter, our “objectivity” be”.

Source: 19th century philosopher Friedrich Nietzsche wrote about “perspectives” in his writings about the nature of truth (Quoted from “The post-truth era of Trump is just what Nietzsche predicted” by Alexis Papazoglou The Conversation 15 Dec 2016)

9. A community based aged care system

As I mentioned at the workshop in a paper “*Australian directions in aged care: the generation of policies for generations of older people.*” Kendig and Duckett suggested in 2001 that the funding of aged care should be done at a regional level. The advantages they gave for this are what we at Aged Care Crisis also want. Such a system would address many of the failings in what we have now.

As Fine has indicated there are very good reasons for moving much of what is now done under regulated capitalism into a community setting within which there is ongoing discourse and integration. The normal processes of social control will be far more effective than the regulatory structures now in place, although there should be a fallback position to address failures. As Fine indicated there is a large and active retired community in a position to engage and participate.

There is growing evidence that community services work when the community owns and controls them and they fail when they are imposed. Our current aged care system is one that has been imposed and that is still happening. There is growing evidence that it is not working.

It is important that civil society in the form of community have control over who operates to provide aged care and there are a number of ways of achieving this. It is equally important that the community be there to empower and protect the customer in this vulnerable sector and so enable her to make sensible choices that support and improve her life. With community in charge they should be able to choose which provider they will work with in order to care for the frail in their community. This gives them market power.

I do not have time or space to explore all this here. **Aged Care Crisis (ACC)** is trying to open debate on the best way to build a community based aged care system and I have made some suggestions of a way in which it can be done on their web site. On a separate web site **Inside Aged Care** I am busy writing a critical analysis of our aged care system in order to explore how a community based aged care system would address the problems identified. Once again I invite criticism from industry and community so that any flaws can be identified at an early stage.

In a democracy ideas should always be criticised by others as early as possible so that their validity can be tested. Their implementation should be closely and openly monitored in the community. It seems that the industry prefers not to engage with the criticisms and answer them. It is likely that the community is coming from a set of neoliberal ideas that it has been socialised into and has difficulty in coming to grips with alternate points of view. To proceed we need to have the debate we have been denied over the last 20 years but initiating this is an uphill battle.

Please note that I do not have time to search out and add reference sources to this but if there is interest in considering this as a way forward then I am happy to do so and expand on the sort of community based aged care system that might be developed. As writer Karen Hitchcock indicated in an ABC 7.30 report interview, the first step is to decide on the sort of system that we want. We can then fill in the details and develop a path that will carefully take us there.

As a society we are sick of endless hype and “reform” propaganda – glowing images that become mirages. We need to see and participate in useful change ourselves. The alternative could be the emergence of more Trumps – or worse!

10. Appendix: Issues for targeted discussion

The issues that were listed for targeted discussion at the meeting were largely ignored by the discussion as participants had other priorities. My views on these are given below.

1. Supply driven or consumer demand

Supply driven: This is too dependent on the vagaries of political policy and political influence. Local organisations should be primarily responsible for determining local needs. Ideally in a community run system the community would contract with a REIT to build facilities and then contract with a provider to work with them in providing care in that facility. This creates an effective community customer that is not constrained in its ability to choose another provider by the fact that the provider owns the facility. This creates a market that will work for care but may be difficult to implement. Other options can be explored.

Consumer demand: This will be driven by profit. Wealthy areas will be over-serviced and poor areas underserved. Consumers would get the care providers wanted to sell them and could persuade them to buy - rather than what they need. Even if they have data they do have the knowledge or power to operate as effective customers. They need local support and guidance from people that they know and trust. A community service would provide this.

Community: It is now recognised that services to the community are best designed in consultation with the community and controlled by them. Aboriginal Health Care is an example where millions of dollars were wasted and where big gains resulted from putting the community in charge and supporting them. This builds social capital, allows individualism to be expressed by developing social selves, encourages responsible citizenship and in doing so rebuilds the social responsibility that has been lost under neoliberalism.

2. Means testing

People have no control over how they die and how long it will take. In a caring and socially responsible society, civil society and government work together to organize some sort of overall insurance like Medicare. This opportunity was lost in the neoliberal agenda. The only remaining way of reintroducing fairness is by death duties.

Any system clearly needs to be effective and fair. The method of payment for care is quite separate to by whom and how that care is provided.

3. Equity of access

This cannot be effectively managed under a centralized “regulatory capitalism” model. It has to be done through local representation and support. Government should support local community organisations controlling aged care by encouraging them to include these stakeholders on their committees and in their deliberations.

4. Effectiveness of arrangements

1. No reliable information is collected and even those in the community like GPs don't have accurate information.
2. Information that is collected is massaged and even then presented in an indigestible format
3. Processes are complicated, rigid, process driven, task focused, impersonal and lacking in empathy. People fall through the cracks.
4. The sort of choice suggested will not only shift more of the costs of care to residents but it will create a situation where they rather than government will become the objects of maximizing.

My Aged Care: The system is far too complex. It is designed for government and not residents. No independent verified data on performance. No assessment of culture. No way of comparing individual providers and sectors other than through the unreliable accreditation reports. It is cumbersome. This service would be best based locally and provided by community members who have knowledge of and first-hand experience of these facilities. The web site should be primarily a resource for them.