



The implications of the Royal Commission and Regulator Activity on NFP Governance

3 AUGUST 2019

gadens

EVOLUTION OR REVOLUTION?

gadens

ROYAL COMMISSION INTO AGED CARE QUALITY & SAFETY

gadens

Hearing Dates

Date	City	Focus
18.02.19	Adelaide #1	Perspectives of regulators, unions and industry orgs
18.03.19	Adelaide #2	Perspectives from consumers. Regulatory Framework
06.05.19	Sydney	People in residential care with an emphasis on Dementia
17.06.19	Broome	Needs of ATSI and TSI, Rural and remote services
24.06.19	Perth	Person centred care, experiences, access to palliative care
08.07.19	Darwin	Wound, medication, continence and pain management
15.07.19	Cairns	Nutrition and Hydration, mobility and social supports
29.07.19	Mildura	Needs of family, informal and unpaid carers and respite care
05.08.19	Brisbane	Regulation
09.09.19	1 Week	
08.10.19	2 Weeks	
04.11.19	2 Weeks	
09.12.19	1 Week	

Recent Royal Commissions - Commonwealth

- Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (2017-2019)
- Royal Commission into Aged Care Quality & Safety (2018 – present)
- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (2019 – present)

Recent Royal Commissions - State

- Victoria
 - Mental Health Royal Commission (2018-present) (VIC)
 - Royal Commission into the Management of Police Informants (2018-present) (VIC)
- South Australia
 - Murray-Darling Basin Royal Commission (2018-2019)

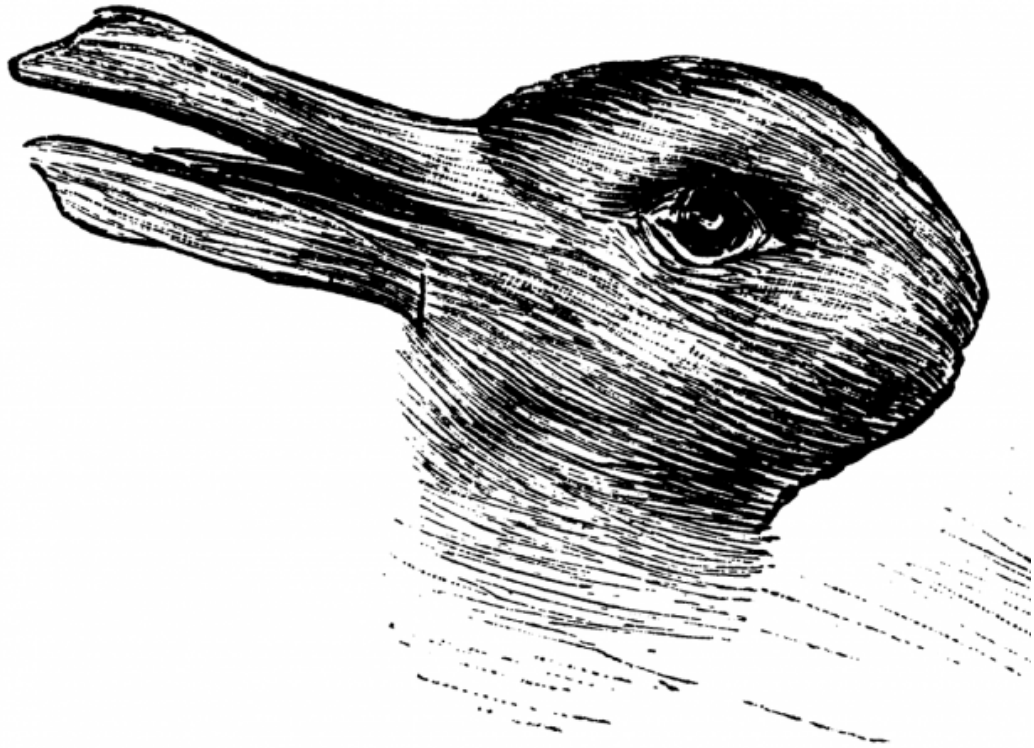
PARADIGM SHIFT

gadens

OH WOW!
PARADIGM SHIFT!



gadens



gadens

Paradigm Shift

- Fundamental change in an individual's or a society's view of how things work in the world
- It is not an evolutionary process its more transformational
- The paradigm we use is based on what we perceive to be true and accurate



gadens

“There appears to be a reluctance on providers to participate in the provision of information. What does this tell us about the approved provider’s ability to be transparent.”

Royal Commissioner Ms Lynelle Briggs

ABC News 19 February 2019

- In relation to the criticisms levelled at the regulators of the banking industry, an article produced by Stephen Long of the ABC with reference to the Australian Securities and Investments Commission (ASIC)
- ***“The corporate watchdog is contemplating more than 40 court cases – including criminal prosecutions – in the wake of the banking royal commission, as it adopts a litigate-first strategy.”***

Royal Commission into Aged Care Quality & Safety

- RC “Right. But you, obviously, as you’ve already indicated, don’t have clinical training yourself, so you’re relying on the managers reporting that to you?”
- RC “The manager at [the facility] and presently doesn’t have nursing qualifications by way of background?”

Royal Commission into Aged Care Quality & Safety

- RC “So ultimately, you have, in a managerial sense, responsibility for each of the facilities.”
- Witness Yes, I do.
- RC “Yes. And above you, though, or including you, there is the Board and the Board has ultimate responsibility, though, for what happens at places like [facility]; would you agree?”

Royal Commission into Aged Care Quality & Safety

- Critical of seeking to shift blame
 - Staff changes
 - Regulator
 - Financial structure
- RC – “..ultimately your responsibility”
- RC – “...and then obviously the Board”

Royal Commission into Aged Care Quality & Safety

- Critical of lack of clinical expertise on the Board
 - 12 to 18 months on board
 - Still recruiting after approximately 12 months

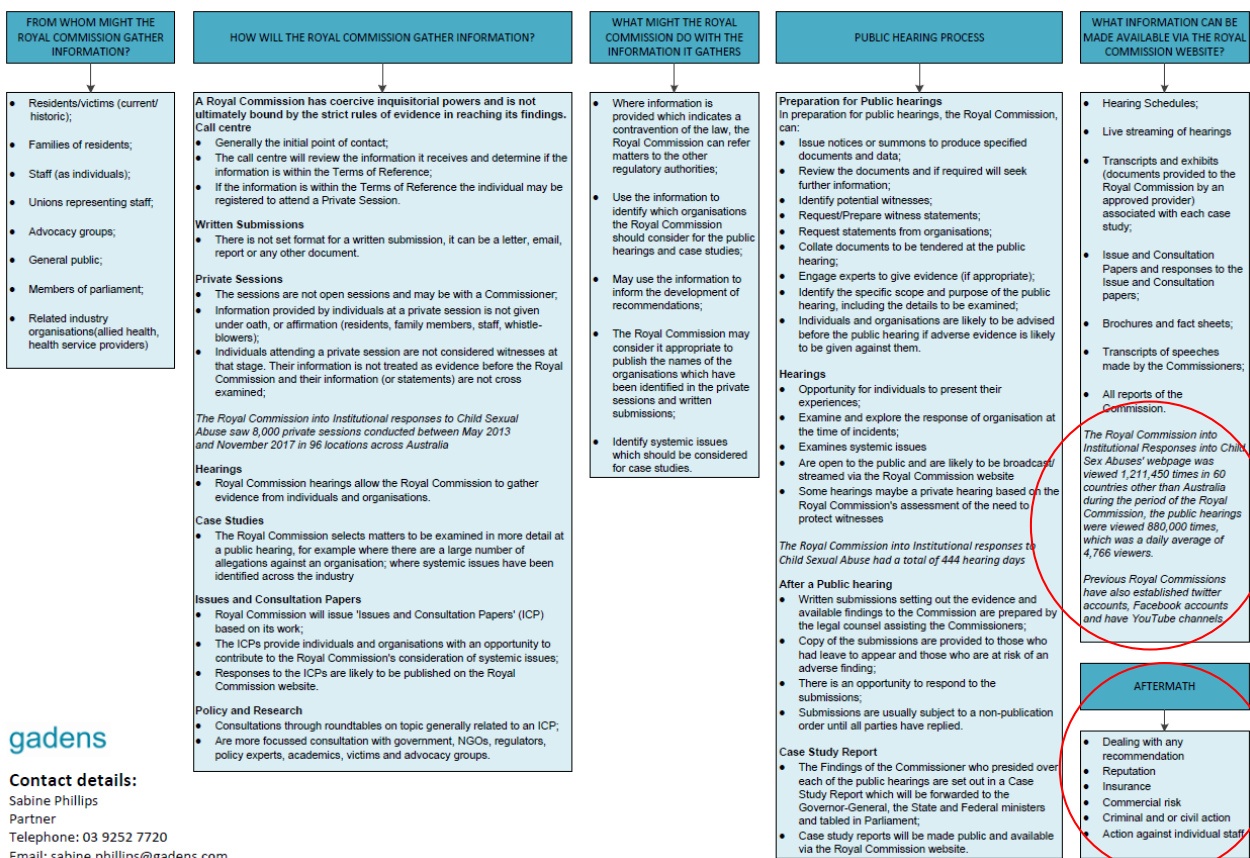
Effects

- Expectations
- Increased costs
- Greater transparency
- Open disclosure
- Model of care
- Collaboration
- Increased reporting

Already implemented

- Quality of Care Amendment (Minimising the Use of Restraints) Principles 2019
- Aged Care Legislation Amendment (Quality Indicator Program) Principles 2019 – (weight loss, pressure injuries, restraint)
- Aged Care Legislation Amendment (Comparability of Home Care Pricing Information) Principles 2019

Stages of a Royal Commission



gadens

Contact details:

Sabine Phillips
Partner
Telephone: 03 9252 7720
Email: sabine.phillips@gadens.com

gadens



Banking Royal Commission

- Inadequate oversight of non financial risks
- Unclear accountabilities
- Weaknesses in issue identification
- Complex and bureaucratic decision making
- Risk management better on paper than in practice

Standard 8 – Organisational Governance

Standard 8 : Organisational Governance

Consumer Outcome

I am confident the organisation is well run. I can partner in improving the delivery of care and services.

Organisation Statement

The organisation's governing body is accountable for the delivery of safe and quality care and services.

CLINICAL GOVERNANCE

gadens

The essence of clinical governance is to ensure that the right thing happens to patients more often (by making it easy to do the right thing) and wrong things happen to patients less often (by making it difficult to do the wrong thing).

Wolff and Taylor, Enhancing Patient Care, a practical guide to improving quality and safety in hospitals 2009, MJ Brooks Sydney page 5

gadens

Does the Board know?

- The capacity of staff to care for care recipients?
- How many care recipients and where?
- The infection rate
- If wound management is being done effectively?
- Resident's nutrition is achieving its outcome?
- Are we doing no harm?
- Are residents better off?
- If the residents are receiving quality care

Barriers to Clinical Governance

- If governance is effective then **all** systems are effective
- Clinical issues should be part of audit and risk
- We're accredited, that's enough
- We're only small, we don't need formal systems
- Tolerance of sub standard care
- Believing your own hype
- Lack of expertise and skills
- No effective Whistleblower systems

Documentation

- Good Records = Good Defence
- Poor Records = Poor Defence
- No Records = No Defence

QUESTIONS?

gadens

Disclaimer

The information contained in this presentation is intended as general commentary and should not be regarded as legal advice. Should you require specific advice on the topics or areas discussed, please contact Sabine Phillips directly.

Sabine Phillips

Partner

T: +61 3 9252 7720

E: sabine.phillips@gadens.com

gadens