

The gig economy in the aged care sector – risks and benefits

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The gig economy is not just car rides and food delivery, with more platforms emerging in many service areas. The aged care service industry has not been immune to this. The Royal Commission into Aged Care Quality and Safety noted that, while there are obvious risks associated with the gig economy model existing in the sector, there is also scope for elderly users to be "empowered to better control their own care".

This is particularly important in light of the shocking revelations of substandard care and abuse within conventional aged care services, which was also discussed in the Royal Commission's report.

What is the gig economy?

Littered across our news cycles for a number of years now have been discussions about platforms such as Uber and Airtasker, which offer on-demand, short-term engagement of a person (a contractor) to perform a task for the person who engages them. This has been referred to broadly as the 'gig economy'.

These platforms boast cheaper services by taking out the middle-man. Those in favour of the platforms also argue that better services are provided because (at least to some extent) the contractor relies on the good reviews of those who have previously engaged them.

However, not everyone is quite so willing to jump on board the gig economy train. Many have complained that the whole job market may slowly move towards this 'gig market', leaving workers without stability or certainty about their future and without important workplace supports such as worker's compensation and leave entitlements like annual leave and carers/sick leave.

Moreover, there has been heavy criticism from more traditional industries that are being taken over by the gig economy. One of the

more vocal of these has been the taxi industry which has been struggling to compete with the likes of Uber and Didi.

Risks and constraints when engaging the gig economy in the aged care sector

Before consideration is given to the benefits of engaging carers through the gig economy platform, significant thought needs to be directed to the associated risks of such a model of care.

The most prominent concern is the lack of supervision, or higher level of authority, of a contract carer. If care were provided through a company that employed the carer, workers would be required to report back and record notes on each appointment, and this would be monitored and mandated by their employer.

A legitimate concern is that instances of substandard care may go even further undetected with the engagement of contracted carers than has already been revealed in the Royal Commission report without the supervision and checks and balances in place with conventional care providers.

Aged care services have an incredibly broad scope, with vastly differing needs and abilities of those requiring assistance. It is acknowledged that this means each service offering within the industry will be constrained to only be appropriate for certain categories of needs and abilities.

The gig economy style of service engagement will likely be constrained to those who are needing lower levels of care, probably in their own homes, and are still able to manage the engagement of services themselves. Alternatively, such services are also likely to be available to those with support persons who are willing to manage these engagements on behalf of their loved ones.

While it is acknowledged that the problems highlighted in the Royal Commission could never possibly be fixed or improved with a ‘one-size-fits-all’ approach. It must be highlighted that given the constraints of who may benefit or have access to gig economy style service engagement, there may be a further deepening the divide in care that was highlighted by the Commission.

The Royal Commission’s report highlighted that elderly people were also experiencing other intersectional disadvantages or vulnerabilities. For example, this could include:

- locational disadvantage for elderly people in rural and remote communities;
- First Nations people;
- elderly people experiencing homelessness; and
- elderly people for whom English is a second language.

There is potential for the ‘gig economy’ to exacerbate these layers of disadvantage as delivery of appropriate services for these groups may prove to be more difficult via gig economy platforms.

Benefits of engaging the gig economy in aged care services

The Royal Commission identified significant shortcomings in the aged care system, including long delays before those seeking to enter the system were able to actually receive that care. Gig economy services may well assist to bridge that gap by offering services which are more quickly delivered and more affordable. This may result in some people not progressing to requiring higher levels of care, further reducing pressures on aged care systems.

One of the more significant benefits of contracted carers is that the person (or their family member managing their services engagement) has greater control over who they engage. This could result in a two-fold benefit.

- If substandard care (or even abuse) does occur, then the engagement can be more easily terminated.

- Given the nature of gig platforms, it will also be easier for those individuals to notify others (in appropriate ways) about what occurred to ensure they also avoid this substandard care.

Gig platforms should also allow for higher levels of transparency around a carer’s qualifications, training and experiences. This is particularly beneficial as the Royal Commission revealed that many aged care workers do not have any qualifications.

In a conventional carer situation, the provider or overarching employer has responsibility for the selection of carers. Individuals have virtually no control over who does and does not provide care to them or their loved ones, and they may not receive information or detail on the qualifications or experience of the carer allocated to them.

Finally, and perhaps most significantly, gig platforms may make aged care services more affordable for users, as we’ve touched on throughout this article. This is achieved by removing the employer or service coordinator (the ‘middle-man’) and the overheads associated with that structure. This may make aged care services more accessible to those individuals who may otherwise not be in a position to access traditional care facilities.

Protecting yourself and your loved ones when using the gig economy for aged care services

If you or your loved ones are thinking about engaging an aged care service (or, in fact, any other services) through a gig economy platform, then there are some steps that you can take to ensure that you are protected.

- **Be clear about your requirements:** Make sure all the parties are on the same page regarding the qualifications and experience that you expect the contracted carer to have and about the tasks that you will be requiring them to perform.

Ask for references: It is helpful to request references whom you can call and chat with. This will ensure the references are legitimate but will also help to make sure any questions you may have can be answered.

Ensure you (and the contractor) are protected with a Services Agreement: This document should clearly set out obligations and how matters such as payment and termination shall occur in the future. Some providers may have a Services Agreement that they use, in which case it is important that you read it and are comfortable with the terms of that document. If they don't have a Services Agreement, then it is worth having one drafted. You may also be able to use this with other future contractors.

Request that records be kept and provided to you: This will provide a mechanism to ensure activities are in line with what you have contracted the care provider to supply.

Insurance: Make sure that the contracted carers you engage have appropriate insurance, including professional indemnity insurance, in the event injury results from the care provided. Also, it is worth checking your own home and contents insurance policy to ensure it covers any loss or injury claim by the contracted care provider.

How IM Lawyers can help

If you or your family members are considering using gig economy services for care or any other services, then we strongly suggest that you have a chat with us to find out how you can ensure you are properly and legally protected.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.