

Right for people in residential aged care to visitor access

Summary

- Concern has been raised about aged care resident access to visitors.
- Information held by the Department of Health and Ageing (the department) and the Aged Care Standards and Accreditation Agency Ltd (the Accreditation Agency) does not indicate this is a significant issue.
- Under the *Charter of Residents' Rights and Responsibilities* (the Charter) and the *Accreditation Standards* (the Standards) under the *Aged Care Act 1997* (the Act) residents have a range of rights that include selecting and maintaining friendships.
- There are a range of reasons why visitor access may be legitimately restricted, including where there are infectious disease outbreaks, or where a resident or their legal representative has requested it.

Background

On 21 May 2013, the ABC's *Lateline* program aired *Loved ones 'locked out' of nursing homes* which reported on *claims that relatives and friends are being turned away from some nursing homes when they complain about lack of care given to their loved ones*.

Rights of residents to visitors

Charter of Residents' Rights and Responsibilities

Within the Charter under the Act, people living in residential aged care have the right to:

- select and maintain social and personal relationships with anyone else without fear, criticism or restriction
- be involved in activities, associations and friendships of his or her choice, both within and outside the residential care service.

Accreditation Standards

In addition, the Act requires approved providers of aged care homes to meet the Standards to ensure that quality of care is maintained for all residents. The Standards cover comprehensive outcomes for residents ranging from receiving emotional support to maintaining independence and friendships and exercising choice and control over their lifestyle while not infringing on the rights of other people.

Under expected outcome 3.4 emotional support, approved providers are required to demonstrate that each resident receives support in adjusting to life in the new environment and on an ongoing basis. In planning strategies to support a resident's emotional needs and preferences, homes are expected to consider the role of the family and significant others in the ongoing lifestyle plan for the resident.

Expected outcome 3.5 independence, requires approved providers to assist residents to achieve maximum independence, maintain friendships and participate in the life of the community within and outside the residential care service, according to residents' needs and preferences.

It is expected this would include planning and communicating strategies for how relatives and friends are encouraged to be part of the life of the resident.

Furthermore, under expected outcome 3.6 privacy and dignity, approved providers must be able to demonstrate each resident's privacy, dignity and confidentiality is recognised and respected, and that they ensure residents have adequate personal space and are provided with appropriate screens or quiet places for receiving guests.

In addition, expected outcome 3.9 choice and decision making, requires that each resident (or his or her representative) participates in decisions about the services the resident receives and is enabled to exercise choice and control over his or her lifestyle while not infringing on the rights of other people. Information should be made available to both the resident and his or her representative about the path to take if the resident does not feel able to exercise choice and control. For example, they should be advised of complaints and advocacy mechanisms such as those within the facility or externally through the National Aged Care Advocacy Program or the Aged Care Complaints Scheme (the Scheme).

Regulation of approved provider responsibilities

The Scheme can receive and manage complaints from care recipients and others about matters relating to an approved provider's responsibilities under the Act, including rights of residents under the Charter.

Residential aged care homes are also assessed and monitored by the Accreditation Agency against the Standards. Approved providers are required to demonstrate that they meet the Standards and that care and services are being provided to a high standard.

The Accreditation Agency conducts assessment visits and operates a program to regularly monitor residential aged care homes. As well as accreditation site audits, which for the majority of homes occur once every three years, the Accreditation Agency conducts at least one unannounced visit to each aged care home per annum. This provides the Accreditation Agency with an opportunity to assess the home's performance against the accreditation standards at any time, without prior notice. The Accreditation Agency may also schedule further visits to an aged care home if information suggests there are concerns.

Data in relation to concerns about access to visitors

Aged Care Complaints Scheme

Whilst the Scheme's current complaints data does not have specific information about complaints related to restricted visitor access, available data relevant to this type of issue is as follows:

In 2011-12, the Scheme received 650 complaints regarding **Choice and Dignity** - represents 16% of total complaints (4,031) received that year.

Within that category which covers a broad range of choice and dignity related issues:

Choice and Dignity - **Social Interaction** - represented 2.5% (or 102) of total complaints received in 2011-12

Choice and Dignity - **Independence** - represents 2.5% (or 99) of total complaints received.

It is not possible to draw any further conclusions about how many of these complaints might relate directly to access to visitors, however, these figures represent a very small percentage of those received by the Scheme.

Aged Care Standards and Accreditation Agency Ltd

In addition, the Department has sought advice from the Accreditation Agency about whether this is an issue that their assessors come across regularly. Advice nationally indicates that while there are some limited circumstances where access may be restricted for the health, safety and well-being of care recipients and/or visitors (see further discussion below) on the whole, visitors are seen positively by providers.

Data from the Accreditation Agency indicates that non-compliance with expected outcomes related to residents' rights to visitors including emotional support, independence, choice and decision making, represent a small number of the total non-compliant outcomes identified in residential aged care. More specifically, they are only around four per cent of the total number of non-compliant outcomes identified by the Accreditation Agency between 1 April 2012 and 31 March 2013. This non-compliance cannot necessarily be attributed to approved providers denying residents' rights to receive visitors.

Reasons why visitor access may be restricted

In order to ensure the health, safety and well-being of residents (and in some cases visitors) there are often legitimate reasons why access of visitors to a service or to a particular resident may be put in place by the provider. Such circumstances include:

- where there has been an infectious disease outbreak and access to the service has been limited
- where a resident or their legal representative has expressly requested that a person not be allowed to visit the resident
- where visitor behaviour has placed the health, safety or well-being of a resident or residents at risk
- where a court has put an apprehended violence order or other restriction in place to restrict access of a person to a resident of the service.

Matters such as these would be taken into consideration if the Aged Care Complaints Scheme considers concerns raised with it about restricted visitor access.

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