

Part 3—Aged care rights and principles

Division 1—Aged care rights

23 Statement of Rights

Independence, autonomy, empowerment and freedom of choice

- (1) An individual has a right to:
- (a) exercise choice and make decisions that affect the individual's life, including in relation to the following:
 - (i) the funded aged care services the individual has been approved to access;
 - (ii) how, when and by whom those services are delivered to the individual;
 - (iii) the individual's financial affairs and personal possessions; and
 - (b) be supported (if necessary) to make those decisions, and have those decisions respected; and
 - (c) take personal risks, including in pursuit of the individual's quality of life, social participation and intimate and sexual relationships.

Equitable access

- (2) An individual has a right to equitable access to:
- (a) have the individual's need for funded aged care services assessed, or reassessed, in a manner which is:
 - (i) culturally safe, culturally appropriate, trauma-aware and healing-informed; and
 - (ii) accessible and suitable for individuals living with dementia or other cognitive impairment; and
 - (b) palliative care and end-of-life care when required.

Quality and safe funded aged care services

- (3) An individual has a right to:
- (a) be treated with dignity and respect; and
 - (b) safe, fair, equitable and non-discriminatory treatment; and
 - (c) have the individual's identity, culture, spirituality and diversity valued and supported; and
 - (d) funded aged care services being delivered to the individual:
 - (i) in a way that is culturally safe, culturally appropriate, trauma-aware and healing-informed; and
 - (ii) in an accessible manner; and
 - (iii) by aged care workers of registered providers who have appropriate qualifications, skills and experience.
- (4) An individual has a right to:
- (a) be free from all forms of violence, degrading or inhumane treatment, exploitation, neglect, coercion, abuse or sexual misconduct; and
 - (b) have quality and safe funded aged care services delivered consistently with the requirements imposed on registered providers under this Act.

Note: Division 1 of Part 4 of Chapter 3 deals with conditions on registered providers, including requirements in relation to the use of restrictive practices and management of incidents.

Respect for privacy and information

- (5) An individual has a right to have the individual's:
- (a) personal privacy respected; and

(b) personal information protected.

(6) An individual has a right to seek, and be provided with, records and information about the individual's rights under this section and the funded aged care services the individual accesses, including the costs of those services.

Person-centred communication and ability to raise issues without reprisal

(7) An individual has a right to:

- (a) be informed, in a way the individual understands, about the funded aged care services the individual accesses; and
- (b) express opinions about the funded aged care services the individual accesses and be heard.

(8) An individual has a right to communicate in the individual's preferred language or method of communication, with access to interpreters and communication aids as required.

(9) An individual has a right to:

- (a) open communication and support from registered providers when issues arise in the delivery of funded aged care services; and
- (b) make complaints using an accessible mechanism, without fear of reprisal, about the delivery of funded aged care services to the individual; and
- (c) have the individual's complaints dealt with fairly and promptly.

Advocates, significant persons and social connections

(10) An individual has a right to be supported by an advocate or other person of the individual's choice, including when exercising or seeking to understand the individual's rights in this section, voicing the individual's opinions, making decisions that affect the individual's life and making complaints or giving feedback.

(11) An individual has a right to have the role of persons who are significant to the individual, including carers, visitors and volunteers, be acknowledged and respected.

(12) An individual has a right to opportunities, and assistance, to stay connected (if the individual so chooses) with:

- (a) significant persons in the individual's life and pets, including through safe visitation by family members, friends, volunteers or other visitors where the individual lives and visits to family members or friends; and
- (b) the individual's community, including by participating in public life and leisure, cultural, spiritual and lifestyle activities; and
- (c) if the individual is an Aboriginal or Torres Strait Islander person—community, Country and Island Home.

(13) An individual has a right to access, at any time the individual chooses, a person designated by the individual, or a person designated by an appropriate authority.

24 Effect of Statement of Rights

(1) An individual is entitled to the rights specified in section 23 when accessing, or seeking to access, funded aged care services.

(2) It is the intention of the Parliament that registered providers delivering funded aged care services to individuals must take all reasonable and proportionate steps to act compatibly with the rights specified in section 23 in the delivery of funded aged care services, taking into account that limits on rights may be necessary to balance the following:

- (a) competing or conflicting rights;

- (b) the rights and freedoms of other individuals, including aged care workers of the registered provider and other individuals accessing funded aged care services;
 - (c) compliance with other laws of the Commonwealth, or of a State or Territory, including the *Work Health and Safety Act 2011*.
- (3) Nothing in this Division creates rights or duties that are enforceable by proceedings in a court or tribunal.

Note: However, it is a condition of registration for certain registered providers that a registered provider must demonstrate understanding of the Statement of Rights and have in place practices to ensure that the provider acts compatibly with the Statement of Rights: see subsection 144(1). A person may make a complaint to the Complaints Commissioner about a registered provider acting in a way that is incompatible with the Statement of Rights: see section 358.