

Aged Care Standards Guidance Material

1. What is your email address?

[REDACTED]

2. Are you answering on behalf of an organisation? If so, please provide your organisations name

Yes, Older Persons Advocacy Network (OPAN)

3. Do you give consent for your submission to be published in whole or part?

Yes, I give consent

4. Where do you live, or, where does your organisation operate?

Nationwide

5. Do you have any specific suggestions in relation to the draft guidance for Standard 1: Consumer dignity and choice? If so, what are they?

Purpose and Scope of Standard

Choice

OPAN considers it important to note that adults have the right to be involved in decisions about their care even where formal decision makers exist.

OPAN Service Delivery Organisations (SDOs) are frequently involved in cases where aged care providers have a limited understanding of the powers and responsibilities of appointed decision makers. This often results in aged care providers supporting the abuse of formal decision-making powers.

For example, we often see cases where formal decision makers advise the aged care provider that certain family members or friends are restricted from visiting the consumer. In these situations, the aged care provider rarely talks to the consumer about their views and wishes with regard to this decision and in many of these cases the consumer wants to maintain their connections with the restricted family members/friends.

OPAN recommends the guidance material for Standard 1 encourage aged care providers to support consumers to have a voice and exercise choice even where formal decision makers exist. This practice will go a long way in preventing elder abuse associated with formal decision makers.

A further issue relates to people with impaired cognition. OPAN believes it is important for aged care providers to provide an environment where appropriate choices are still offered and decisions respected. OPAN advocates see cases where a person is labelled as having dementia

and is given no choices about simple lifestyle decisions where these may be well within the person's scope.

Information

OPAN recommends the guidance materials encourage aged care providers to offer consumers and carers access to information from independent sources where conflicts of interest may exist. For example, access to independent allied health assessments where there are concerns that an allied health professional affiliated with an aged care provider has made an assessment based on the needs and preferences of the aged care provider rather than the needs and preferences of the consumer.

Key resources and relevant legislation

Decision Making Principles

The Australian Law Reform Commission's (ALRC) Report No 131, *Elder Abuse – A National Legal Response* recommended that aged care laws and legal frameworks be amended to be consistent with the National Decision-Making Principles set out in ALRC Report No 124 *Equality Capacity and Disability in Commonwealth Laws*.

These Principles highlight the equal rights of all adults to make decisions that affect their lives. They advise that the will, preferences and rights of a person who may require decision making support must direct these decisions (ALRC, 2017).

OPAN recommends that the National Decision-Making Principles (when formally endorsed) be listed as a key resource under Standard 1. As an interim measure, state/territory based resources of a similar nature should be referenced. For example, in Queensland, [The General Principles](#) provide legal guidance on supported decision making.

Charter of Care Recipients Rights and Responsibilities – Home Care (to be replaced by the single aged care Charter in due course)

OPAN recommends that the *Charter of Care Recipients Rights and Responsibilities – Home Care* also be listed under key resources and relevant legislation.

OPAN also recommends that all care staff be obliged to undergo training in the meaning and application of the Charter.

Requirement 1.1

Training

Recommendation 5 (iii) of the *Review of National Aged Care Quality Regulatory Processes* (Carnell & Paterson, 2017) states that approved providers must ensure all staff undertake regular Older Persons Advocacy Network education on consumer rights.

OPAN requests that this recommendation be reflected in the workforce training requirements associated with Standard 1, and that aged care providers be assessed in audits as to their compliance with and support of this recommendation.

Requirement 1.4

OPAN SDOs are frequently involved in cases where aged care providers will not permit consumers to access personal information (financial statements, Power of Attorney documents etc) without the permission of the consumer's formal decision maker.

This practice undermines the basic human rights of the consumer. It can also place the aged care provider in a position where they are supporting a formal decision maker to financially abuse the consumer.

OPAN recommends that the guidance material under Requirement 1.4 highlight the rights of consumers to access information about their care and services regardless of capacity and without the permission of formal decision makers.

6. Do you have any specific suggestions in relation to draft guidance for Standard 2: Ongoing assessment and planning with consumers? If so, what are they?

OPAN notes that consumers will not always be able to recognise when their care needs have changed. It is therefore important that all members of the workforce, who have consumer contact, are skilled in identifying triggers for reassessment (weight loss, memory decline etc). This skill is particularly important in the community setting where the consumer may live alone and changes in care needs may otherwise go undetected in between scheduled reassessments.

7. Do you have any specific suggestions in relation to draft guidance for Standard 3: Personal care and clinical care? If so, what are they?

Choice and Dignity of Risk

OPAN considers it essential that the guidance material for Standard 3 demonstrates strong links to Standard 1, requirement 1.3.

In OPAN's experience, aged care providers often place greater emphasis on compliance with clinical risk management practices over compliance with the consumer's right to make decisions about their care, even if these decisions involve an element of risk.

In OPANs experience, common scenarios where consumers seek to exercise choice and dignity of risk include wanting to

- eat whole foods, despite the risk of choking,
- shower independently and privately, despite the risk of falls,
- shower daily, despite the risk to skin integrity
- mobilise independently, despite the risk of falls.

Optimising nutrition and hydration

OPAN notes that whilst it is important for aged care providers to encourage independence during meal times and drinking, it is equally important that those who require assistance to eat and drink receive this assistance in an appropriate and timely manner.

OPAN SDOs have been involved in numerous cases where family and friends report that food is delivered and left untouched because it appears that the care staff do not have the time to support people to eat the meals.

The outcomes associated with this are

- family members and friends feel they must visit every meal time or their loved one will not be fed.
- care staff provide individuals with assistance to eat once all other resident meals have been delivered. By this time the meals are often cold.
- Residents are fed in a rush, which can impact on dignity of care.
- Residents end up being given sustenance drinks when meals are left uneaten. This is a quicker option but not necessarily one preferable for consumers.

OPAN recommends that the guidance material for Standard 3 encourage aged care providers to, where needed, provide assistance to eat and drink in a respectful and timely manner.

Minimising restrictive practice

OPAN recommends that the guidance material provide a more detailed definition of restrictive practice including examples of common forms of restrictive practice.

OPAN suggests that the guidance material should note that the Australian Law Reform Commission (Report No 131, 2017) has recognised that the application of some restrictive practices can constitute elder abuse, deprive people of their basic legal and human rights and be classified as assault, false imprisonment and/or other civil or criminal acts.

OPAN also recommends that the guidance material should align with the ALRC recommendations for restrictive practices in aged care to only be used:

- When necessary to avert physical harm;
- To the extent necessary to prevent harm occurring;
- With the approval of an independent decision-maker; and
- In accordance with the behaviour management plan of the person to whom the restrictive practice is being applied.

Key resources and legislation

OPAN notes that the guidance material for Standard 3 does not include a list of key resources and legislation. OPAN suggests that there are a range of relevant resources that can inform providers of best practice on a range of topics including supporting restraint free environments in residential aged care, medication management etc.

8. Do you have any specific suggestions in relation to draft guidance for Standard 4: Services and supports for daily living? If so, what are they?

A number of comments made earlier in relation to other standards can clearly also apply here. OPAN has no further comments on the draft guidance for Standard 4.

9. Do you have any specific suggestions in relation to draft guidance for Standard 5: Organisations service environment? If so, what are they?

OPAN has no comments on the draft guidance for Standard 5.

10. Do you have any specific suggestions in relation to draft guidance for Standard 6: Feedback and complaints? If so, what are they?

Requirement 6.1

OPAN would like to see it noted that independent advocacy supports can be accessed at any stage within the complaints process from raising a concern to making a formal complaint to the Aged Care Complaints Commissioner. It should also be noted that advocates have a legislated right of entry to an aged care service 24/7 if requested by an aged care consumer.

OPAN also suggests that evidence under consumer experience should include, “consumers describe that they have not faced retribution or been treated differently as a result of making a complaint”. In OPAN’s experience, fear of retribution is one of the greatest barriers to making a complaint, especially in the residential aged care setting.

Requirement 6.3

OPAN would like to see specific reference to the National Aged Care Advocacy Program (NACAP) within guidance material relating to Standard 6. The NACAP is funded by the Australian Government under the Aged Care Act 1997 and should be the primary advocacy service promoted within aged care services. NACAP is free and independent.

11. Do you have any specific suggestions in relation to draft guidance for Standard 7: Human Resources? If so, what are they?

Requirement 7.2

OPAN recommends that Requirement 7.2 include reference to the importance of the workforce maintaining professional boundaries.

Requirement 7.3

OPAN recommends that further guidance materials be developed to support the broader aged care workforce to understand and deliver the outcomes required against the Standards.

OPAN suggests that the Draft Guidance would be an appropriate tool for management and quality officers but at 166 pages long, it is unlikely that the average direct care worker will have the time to thoroughly read or comprehend this document.

OPAN recommends the development of a series of short videos or webinars to assist in educating the broader aged care workforce on the Standards. These materials should also be made available in languages other than English.

12. Do you have any specific suggestion in relation to draft guidance for Standard 8: Organisational governance? If so, what are they?

OPAN has no comments on the draft guidance for Standard 8.

13. On a scale of 1 to 10 (1 being not clear at all and 10 being very clear) How clear is the guidance material over all. What would make it clearer?

14. Are there any gaps in the guidance material? If yes, what else should be included in the guidance material, to help aged care service providers meet the draft new Aged Care Quality Standards?

OPAN has provided several suggestions on how the draft guidance material could be improved.

OPAN notes that the draft guidance material is not designed to be an exhaustive list evidence and the evidence listed are not mandatory requirements.

The feedback provided by OPAN is reflective of the common types of concerns raised by aged care consumers accessing advocacy support.

OPAN hopes that the inclusion of feedback provided in response to Question 5 -12 will encourage aged care service providers to give thought to preventing and/or addressing the common concerns raised by aged care consumers.