

## Key actions for providers:

- **Review your internal policies and procedures** – avoid any reference to your staff acting as independent aged care advocates for an older person.
- **Promote the Statement of Rights** – including reviewing policies and procedures, and staff training to ensure you are meeting your obligations regarding the positive duty to uphold the Statement of Rights.
- **Have a conflict-of-interest policy** – ensure your staff understand how to recognise and manage real or perceived conflicts.
- **Review your public-facing information** – where you refer to advocacy, ensure you clearly explain the difference between your role and that of external, independent advocacy services.
- **Provide clear communication** – avoid language that could confuse care management, care finder, care advisory or other specialist services with independent aged care advocates.

## How can providers promote and facilitate access to independent aged care advocates?

Aged care providers have obligations under section 156 of the Act to promote and facilitate access to independent aged care advocates. These obligations are, with the consent of the older person:

- Allowing and facilitating access to independent advocates within the setting in which the provider delivers funded aged care services, including for the purpose of providing information and education.
- Facilitating an independent aged care advocate's access to records and information that a provider holds for an older person and that the older person has the right to access.

## The Aged Care Rules 2025 also specify provider requirements for:

- Offering access to independent aged care advocates to older people and supporters affected by an incident.
- Acknowledging independent aged care advocates in complaints and feedback management systems and supporting older people to access independent aged care advocates when making a complaint or providing feedback.
- Ensuring older people receive accessible information about how to contact an independent aged care advocate.
- Providing information about the availability of independent aged care advocates to assist with making a complaint to the Complaints Commissioner.

OPAN offers a range of information and education resources to assist providers to meet their obligations.

## For more information:

Visit [opan.org.au](https://opan.org.au)

- to find your local independent aged care advocate organisation
- access staff training on independent advocacy
- book an information or education session

Call the Aged Care Advocacy Line on **1800 700 600**



## OPAN member organisations by state or territory:



# Aged care services and independent aged care advocates

## How are they different?

**It's important that registered aged care providers, their associated providers, and older people seeking and using aged care services understand the difference between aged care service delivery, independent aged care advocates and other supporters/advocates under the new Aged Care Act 2024.**

## What is advocacy?

Advocacy is defined as the process of supporting a person to understand and exercise their rights, make informed decisions, have their voice heard, and their views and wishes considered.

## Who can be an advocate?

Under the Statement of Rights, older people have the right to engage an advocate of their choice to represent their rights and interests with their aged care provider. Their chosen advocate could be a registered supporter, carer, family member or friend, an independent aged care advocate, a paid advocate or lawyer.

## What does the Act say about independent aged care advocates?

Section 7 of the Act provides a definition of what an independent aged care advocate is and their role:

*Independent aged care advocate means a person who:*

- is independent of the System Governor (the Department of Health, Disability and Ageing), the Aged Care Quality and Safety Commission (the Commission) and any registered providers; and
- is employed or otherwise engaged by a person or body that receives financial assistance under section 265 for the purpose mentioned in paragraph 265(2)(e); and
- provides either or both of the following to individuals accessing, or seeking to access, funded aged care services:
  - free, independent and confidential support, information and advocacy
  - education about the rights of individuals under the Statement of Rights; and
- if providing the services mentioned in subparagraph (c)(i) in relation to a particular individual—acts at the direction of the individual, reflecting the individual's expressed wishes, will, preferences, interests and rights.

Independent aged care advocates are funded under section 265 of the Act through the [National Aged Care Advocacy Program \(NACP\)](#).

## Who are independent aged care advocates?

The Australian government funds OPAN to deliver the National Aged Care Advocacy Program. Currently, OPAN's nine state and territory member organisations are the only employers of independent aged care advocates.

Independent aged care advocates are trained professionals who work under an Aged Care Advocate Code of Conduct which describes the principles, values and behaviours expected of independent aged care advocates. A key principle of the Aged Care Advocate Code of Conduct is independence from aged care service provision, the Commission and being free from any real or perceived conflict of interest.

Independent aged care advocates are required to place the older person at the centre of the advocacy process and act at the direction of the older person. They offer confidential support and follow clear policies and procedures relating to consent.

An 'authority to advocate' is an agreement between an older person and their chosen advocate, not between a registered provider and an independent aged care advocate. A copy may be shared with the registered provider with the consent of the older person, however a separate consent to advocate is never required to be obtained by the provider themselves.

## What does it cost to access an independent aged care advocate?

Support from an independent aged care advocate is free for any older person seeking, waiting for or accessing Commonwealth government funded aged care services. While an older person or their family may choose to privately fund aged care services, not approved or subsidised by government, or pay for the services of a private aged care advocate, they should always be informed about government funded services and the availability of free, independent aged care advocacy services.

## Can family members, registered supporters, carers and friends be independent aged care advocates?

Family members, registered supporters, carers and friends can be advocates if chosen by the older person but are not considered independent aged care advocates under the Act. These advocates can play an important role in noting issues and advocating for improvements in care. Like any advocate, their efforts should always be directed by the older person's rights and current will (or previously expressed preferences if unable to communicate their current will). If you are concerned that they may not be acting at the direction of an older person, talk to the older person, ask them directly about their views and wishes and inform them of their right to access a free, independent aged care advocate.

## Can aged care providers offer independent advocacy?

Someone employed or contracted by a registered aged care provider cannot provide independent advocacy.

Aged care workers play an important role in advancing the wishes and preferences of the older person they provide care and services to and upholding and promoting the Statement of Rights. An older person may decide that an aged care worker can advocate for their interests. However, there are potential conflicts of interest when staff act in an advocacy role for an older person, so provider policies, procedures and staff training should clearly set out the difference between independent advocacy and staff support, and how to manage these conflicts.

Aged care providers and their management also have an important role in delivering safe, quality, person-centred care and services and are expected to enable their organisation to act in accordance with the Aged Care Code of Conduct and the Statement of Rights, along with the will and preferences of the older person they support. While this includes listening to the older person and their supporters, responding to concerns, and promoting choice and decision-making, it is distinct from the role of an independent aged care advocate.

Independent aged care advocates act solely on behalf of the older person without conflict or competing interests—something a registered provider delivering aged care services cannot objectively do. Even with good intentions, taking on an advocacy role may unintentionally compromise an older person's autonomy or limit their choice and decision-making. A separation of roles ensures transparency, maintains professional boundaries, and promotes stronger safeguards for older people.

Aged care providers—whether registered or associated—should not offer, promote, or present their services as independent advocacy for an older person. Doing so may:

- Breach the [Code of Conduct for Aged Care](#)
- Risk misleading older people and compromising their choices and decision-making
- Breach obligations under the Aged Care Quality Standards and the Aged Care Act 2024
- Contravene the [Australian Consumer Law](#) if services are promoted as 'independent' when they are not

## What advocacy assistance can aged care providers offer?

While providers cannot provide independent advocacy, they can support older people by:

- Upholding older people's rights, needs and preferences, consistent with obligations under the Act relating to the Statement of Rights
- Providing information about the aged care system and service options (without influencing choice or decision-making)
- Supporting older people to access decision-making supports via registered supporters, interpreters, or family carer involvement where applicable
- Referring older people and their supporters to an independent aged care advocate via the Aged Care Advocacy Line on 1800 700 600

### PROVIDERS SHOULD

- ✓ Inform older people and their supporters of the existence and availability of independent advocates.
- ✓ Include information on the availability of independent aged care advocates and their role in any material related to the provider's complaint process, and during the process of raising and management of complaints.
- ✓ Assist older people to call the Aged Care Advocacy Line to speak with an independent advocate on 1800 700 600.
- ✓ Build connections with local independent aged care advocates and facilitate access to free, confidential and independent aged care advocacy support and education, and facilitate access to the aged care service participants.
- ✓ Cooperate with independent advocates and respect their role in protecting the older person's rights and interests.

### PROVIDERS SHOULD NOT

- ✗ Prevent an older person from accessing an independent advocate because a registered supporter or substitute decision-maker says no. It is the older person's right to have an advocate of their choice.
- ✗ Not seek separate consent from the resident/participant to speak to an aged care advocate or receive information/education.
- ✗ Promote their services as 'independent advocacy' for older people to whom they provide aged care and services.
- ✗ Influence older people's choices and decision-making through advisory roles that are not impartial.
- ✗ Blur the line between funded aged care supports and independent aged care advocate roles.

