



New Aged Care Act: Statement of Rights

The new Aged Care Act will introduce a Statement of Rights, outlining the rights of older people in the aged care system. This will help ensure that older people and their needs are, and remain, at the centre of the new system.

Royal Commission recommendations

Recommendation 1 of the Royal Commission into Aged Care Quality and Safety was that a new Aged Care Act be developed. As well as broadly supporting a 'rights-based' approach to the new Act, the Royal Commission recommended that the new Act should include a Statement of Rights (Recommendation 2).

The role of the Statement of Rights

The Statement of Rights is expected to outline the specific rights of people seeking, or accessing, funded aged care services under the new aged care system. These rights, together with new clear and consistent obligations outlined in the legislative framework, will ensure registered providers and other workers within the aged care system have a common understanding of the outcomes expected when such services are delivered.

The proposed Statement of Rights will empower users of the aged care system. It will provide clarity, and promote confidence, among older people, their family members and representatives, providing a reference point from which they can advocate in complex and sensitive circumstances.

The Statement of Rights will draw on the wording recommended by the Royal Commission. It will also incorporate rights similar to those included in the current Charter of Aged Care Rights, plus some additional rights suggested as part of consultations to date with stakeholders.

Note: The Statement of Rights will be complemented by a Statement of Principles – for further information see separate fact sheet on *New Aged Care Act: Statement of Principles*.

Which rights should be included?

Note: The proposed rights are numbered for ease of reference only and is not intended to show a hierarchy or how the statement of rights may be presented in the new Act.

Subject to further consultation and consideration, it is intended that the Act recognise that older people have the right to:

1. exercise choice and make decisions that affect their lives, including where personal risks are involved, and that are in pursuit of their quality of life, their social participation, and intimate relationships, and be supported, if necessary, to make those decisions, and have those decisions respected
2. equitable access to have their need for aged care services assessed, including in a culturally appropriate manner
3. exercise choice between available aged care services they have been assessed as needing, and, how these services are delivered
4. communicate in their preferred language or method of communication, with access to interpreters and communication aids as required
5. be treated with dignity and respect, including being listened to and informed, in a way they understand, about the services they are accessing
6. freedom from all forms of degrading or inhumane treatment, violence, exploitation, neglect and abuse
7. freedom from inappropriate use of restrictive practices
8. safe, fair, equitable and non-discriminatory treatment in accessing those services
9. equitable access to palliative and end-of-life care when required
10. be supported to exercise their rights, voice opinions and make complaints without fear of reprisal, and have their complaints dealt with fairly and promptly
11. have their identity, culture and diversity valued and supported, including in accessing funded aged care services that are culturally appropriate, trauma aware and healing informed
12. their personal privacy and to have their personal information protected
13. seek, and be provided with, personal information about them held by Commonwealth agencies and registered providers, as well as information about their rights and the funded aged care services they are accessing or have accessed
14. have the role of their family members, carers and other significant persons in their lives acknowledged and respected
15. be supported by an advocate or a person of their choice
16. opportunities and assistance to stay connected (if the individual chooses) with family members and other significant persons in their life, including safe visitation by family members and friends at reasonable times in residential care homes.

How will rights be upheld under the new Act?

The Statement of Rights will be more than just symbolic, with pathways available to older people to seek to have their rights upheld.

Registered providers will be expected to deliver Commonwealth funded aged care services in a manner consistent with the Statement of Rights and have practices in place to ensure they are able to do so. This will be subject to necessary limits to balance competing or conflicting rights. For example, the rights of other individuals also accessing aged care services in the same residential aged care home.

Registered providers will also need to share information about the Statement of Rights with older people, so they are aware of their rights and what they can expect from a provider. Knowing their rights will empower older people and their representatives to hold aged care workers and aged care providers accountable and raise complaints to address issues and support continuous improvement.

The intention is that an older person who considers their rights have been breached when seeking access or accessing aged care services, will also be able to make or escalate a complaint to the Aged Care Quality and Safety Commission, with the new Complaints Commissioner able to pursue early intervention, conciliation or restorative outcomes.

Identified breaches of specified rights are also expected to involve breaches of provider obligations under the new framework, with formal compliance and enhanced enforcement pathways available to take action in serious cases.

A rights-based approach

Rights will also be operationalised through other provisions in the new Act – for example, the new single-entry point to the system, as well as new representative arrangements and supported decision-making principles – see the fact sheet on *New Aged Care Act - Embedding supported decision making*.

How can I have my say about the statement of rights?

An Exposure Draft of the Bill for the new Aged Care Act is expected to be released for public consultation later in 2023 and there will be opportunities to have your say about the draft Bill.

You can also [subscribe to Your Aged Care Update \(for providers\) or EngAged \(for older people, their carers, and families\)](#) to stay up to date with reforms to aged care.

Let's change aged care together

We invite Australians to continue to have their say about the aged care reforms.



Visit agedcareengagement.health.gov.au



Phone **1800 318 209** (Aged care reform free-call phone line)

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