



## Aged Care Update

26 September 2014

### Out with the Old, In with the New

The Department of Social Services has consigned the Residential Care Manual to history. Instead, DSS has released The Guide to Aged Care Law which is to be the new 'go to' for those seeking a somewhat plainer English explanation of the provisions of the Aged Care Act 1997 and its subordinate legislation, and for assistance with understanding the complex regulatory regime that applies in aged care.

The Guide may be accessed [here](#).

The Guide covers both residential and home care. At this stage, whether to include the foreshadowed Commonwealth Home Support Program (aka HACC) remains an open question. There would be advantages by including information on the full spectrum of Commonwealth aged care services in a single document, even if the regulation of the Commonwealth Home Support Program is not governed by dedicated legislation.

The Guide is presented in seven parts:

- key terms and definitions;
- information about approved provider status and provider obligations towards those for whom they care;
- information about flexible care services such as Multi-Purpose Services;
- home care, including information on fee and payment arrangements and the allocation of places;
- residential care, including fees and payments, the classification of residents, the allocation of places, extra service and eligibility of care recipients for Government subsidies;
- information on grants programs under the Act such as grants for capital works in residential care, advocacy grants and community visitors grants; and
- a section dealing with the administration of aged care legislation, including provisions for administrative review of decisions, protection of information, recovery of overpayments, management of complaints and the functions of Commissioners such as the Aged Care Pricing Commissioner.

The Guide also includes a search function and a site map to assist with navigation.

The Guide is not a legal document and is not a substitute for black letter law, but includes links to enable easier reference to relevant sections of the Act and subordinate legislation.

The Department anticipates that, being the first edition of the Guide, there will be a requirement for refinement based on the experience of users. Accordingly, DSS encourages users to provide feedback, including concerning the presentation of the content, the functionality of the Guide and on further enhancements to the Guide. Feedback can be provided direct to [AgedCareGuide@dss.gov.au](mailto:AgedCareGuide@dss.gov.au).

The Guide will be updated as required by any changes to legislation governing aged care services. For example, the Guide will be updated for the removal of the building certification provisions once the

amending legislation receives royal assent.

One aspect of the Guide which cannot pass without comment is that it perpetuates a culture in aged care based the notion that the Commonwealth subsidises aged care providers. In practice, aged care providers receive payments from the Commonwealth on behalf of subsidised consumers whose needs and means are assessed individually, and payments from consumers. The Commonwealth could make its payment direct to each eligible individual, as it does with the age pension, but chooses not to.

The payments received by providers from the Commonwealth and consumers are regulated with a view to protecting consumers while at the same time ensuring that provider revenues are sufficient to support financially viable and sustainable services.

As we move, appropriately, towards placing the consumer at the centre of the aged care system by affording each consumer choice and control over the use their Commonwealth subsidy and their own contribution, the more important it is to reflect in aged care's narrative that aged care is a service industry. As such, the industry must be responsive to consumer preferences, and has to compete to attract the resources and capital required to provide the services that will be required by Australia's ageing population.

*Disclosure Statement: The author of Aged Care Update, Nick Mersiades, is a member of the Aged Care Financing Authority. The opinions in this Update should not be read as being an expression of the views of the Aged Care Financing Authority.*

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