Your Rights When an Incident Occurs in Aged Care

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This Fact Sheet explains the requirements for managing and reporting incidents in the delivery of Commonwealth-funded residential aged care and home care services in Australia.

Under the Serious Incident Response Scheme (**SIRS**), registered aged care providers (**Providers**) must report certain incidents (**reportable incidents**) to the aged care regulator.

Providers must manage all incidents, whether reportable or not, and ensure those affected receive appropriate support and are involved in the response.

What are reportable incidents?

Reportable incidents must be reported to the Aged Care Quality and Safety Commission (**ACQSC**), the regulator responsible for overseeing Commonwealth-funded aged care services.

An incident is reportable if it meets the following criteria:

1. An act, omission, event or circumstance (the incident) has occurred, or is alleged to have occurred, or is suspected of having occurred in connection with the delivery of funded services, **AND**

2. The incident includes any of the following:

- **Unreasonable use of force** against the individual, including a deliberate or unwarranted physical attack, but excluding gentle touching to attract, guide or comfort a person;
- **Unlawful sexual contact**, or inappropriate sexual conduct;
- **Psychological or emotional abuse** including bullying, humiliation, refusal to acknowledge the individual, and unreasonably restricting a person from engaging socially;
- **Unexpected death**, including not taking reasonable steps to prevent the death in residential care, and death resulting from delivery or failure of the delivery of funded services;
- **Stealing** from, or financial coercion by an aged care worker of the Provider;
- **Neglect** of the individual, including acts that expose the individual to the risk of serious injury or illness due to inadequate services, or reckless or intentionally negligent delivery of services, or non-delivery of services;
- **Use of a restrictive practice**, other than in accordance with the statutory rules; and
- **Unexplained absence** of a person receiving care, in circumstances that the absence is reportable to the police.

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Reporting Serious Incidents to the Regulator

Providers are required to notify the ACQSC of a reportable incident using an approved form.
Providers are also required to ensure aged care workers of the Provider, who become aware of a Reportable Incident notify their supervisor or manager, or a person nominated by the Provider.

Providers must report incidents that are categorized as Priority 1 incidents within 24 hours of the Provider becoming aware of the incident, and Priority 2 incidents within 30 days of becoming aware of the incident.

Priority 1 incidents include:

- physical or psychological injury requiring medical or psychological treatment, by a professional;
- incidents where there are reasonable grounds to make a police report;
- unlawful sexual contact or inappropriate sexual conduct;
- unexpected death; or
- unexplained absence of the individual.

Providers must consider that individuals with physical, cognitive or communication impairments may experience physical or psychological harm or distress that they are unable to express.

Priority 2 incidents are incidents that are not reportable as Priority 1 incidents.

Providers must include the following information in the incident report:

- Provider contact details;
- Description of harm caused and any consequences;
- Support provided to the individual affected;
- Any further action; and
- Cognition of the affected person.

Providers must notify the ACQSC of any significant new information, and provide further information within 5 days (or at a specified time) to the ACQSC on request.

Managing and Responding to Incidents

Providers of residential care and certain home services, for example - home and community services, advisory and support services, personal and care support in the home or community and nursing and transition care, are required to implement an internal Incident Management System (**IMS**) for incidents, including reportable incidents**,** occurring in the delivery of funded services.

The IMS should record information on how the Provider will respond, investigate, assess, report and prevent incidents, including how the individual impacted will be supported, and any remedial action taken.

The IMS is to record:

- any acts or omissions that caused harm, are alleged or suspected to cause harm to an individual or another person, or are reasonably expected to cause harm;

- any other acts or omissions that the Provider became aware of that caused harm to an individual.

Specific information to be recorded on each incident include;

- Description of the incident and the harm caused, or which could have been caused, and any consequences of harm, if known;
- If the incident is reportable;
- The time, date and place the incident occurred or suspected to have occurred;
- Name of any person directly involved in the incident;
- Details of any investigation undertaken;
- Any assessment or response to incidents;
- The name of the person recording details of the incident and if it was reported to the Police.

Have you been involved in the incident response?

Aged care providers have legal obligations to offer appropriate support and assistance to people affected by an incident, including access to advocates and language services where needed, to protect their safety, health and wellbeing.

Providers must also ensure that affected individuals are appropriately involved in managing and resolving the incident. This includes following an open disclosure process, communicating openly about what happened, listening to concerns and explaining what action is being taken in response.

Have you or your loved one received appropriate support and been involved in how the incident is managed and resolved?

What can happen if a Provider breaches their obligations?

The ACQSC has broad powers on receiving a notice on a reportable incident and may take further action to prevent further harm to the person. The ACQSC may report the incident to the police or to other organisations eg the Coroner. The ACQSC can impose restrictions on a Providers registration.
The ACQSC can impose civil financial penalties for failure to report incidents (250 penalty units) and for providing false or misleading information or documents (60 penalty units). (A penalty unit is currently $364.)

Responsible Persons also have a duty to ensure Providers have a process for receiving and considering information regarding incidents and responding in a timely way. Staff who become aware of a reportable incident must promptly notify a responsible person, supervisor, manager or another designated person.

What can you do if you are concerned about an incident?

- Contact the aged care provider to express your concerns.
- Make a complaint to the Aged Care Quality and Safety Commission.
- Contact ACJ if you are unsure of your rights and would like a free legal consultation.

Contact Aged Care Justice if you would like a free legal consultation:

Email: info@agedcarejustice.org.au

Call: 0417 234 415

Website: www.agedcarejustice.org.au

DISCLAIMER: This fact sheet is for general information purposes only and does not represent legal advice. As it is not intended to be comprehensive in relation to the topic, other inclusions or exemptions may apply. The law and policy referred to in this document will be in force from 14/10/2026.

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