



**Carers Australia Submission on the Fees and Payments Principles  
2014 (No. 2) under section 96 (1) of the *Aged Care Act***

**Exposure Draft**

**May 2014**

Carers Australia is the national peak body representing the diversity of Australians who provide unpaid care and support to family members and friends with a:

- disability
- chronic condition
- mental illness or disorder
- drug or alcohol problem
- terminal illness
- or who are frail aged.

Carers Australia believes all carers, regardless of their cultural and linguistic differences, age, disability, religion, socioeconomic status, gender identification and geographical location should have the same rights, choices and opportunities as other Australians.

They should be able to enjoy optimum health, social and economic wellbeing and participate in family, social and community life, employment and education.

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## **Response to the Exposure Draft of the Fees and Payments Principles 2014**

Carers Australia welcomes the opportunity to comment on the Exposure Draft.

We have some concerns in relation to the disclosure of information by approved providers. These concerns relate to the absence of principles formerly enshrined in the 2011 User Rights Principles which impose obligations for the provision of financial information relating to care recipients or their representatives.

We note that section of the 2011 User Rights Principles relating to fees and payments have been removed from the recently released Exposure Draft of User Rights Principles 2014, because they are now covered by the Fees and Payments Principles 2014 (2).

The only reference to the rights of care recipients' representatives with respect to disclosure obligations in the Draft Fees and Payments Principles is in Section 58 which refers to prospective care recipients.

The disclosure obligations after an accommodation agreement is entered into (Section 57) is confined to information provided to the care recipient. No mention is made of their representatives.

While most frail aged people are likely to be more than competent to manage their own financial affairs, many are not.

In the interests of clarity and thoroughness, we recommend that the term "or their representatives" be included in the wording of those sections of the new Fees and Payments Principles relating to disclosure obligations.

Recommended changes are below.

## Recommendations

**(1) That the definition of a representative is included in Part 1 (4). This definition should be consistent with that used in the Draft User Rights Principles 2014. That is:**

- “(1) In these principles, **representative**, of a care recipient, means:
- (a) a person nominated by the care recipient as a person to be told about matters affecting the care recipient; or
  - (b) a person:
    - (i) who nominates himself or herself as a person to be told about matters affecting a care recipient; and
    - (ii) who the relevant approved provider is satisfied has a connection with the care recipient and is concerned for the safety, health and well-being of the care recipient.

(2) Without limiting subparagraph (1)(b)(ii), a person has a connection with a care recipient if:

- (a) the person is a partner, close relation or other relative of the care recipient; or
- (b) the person holds an enduring power of attorney given by the care recipient; or
- (c) the person has been appointed by a State or Territory guardianship board (however described) to deal with the care recipient’s affairs; or
- (d) the person represents the care recipient in dealings with the approved provider.

Note: Examples for paragraph (2)(d) include:

- (a) signing a resident agreement for the care recipient; and
- (b) paying accounts for the care recipient.’

**(2) That section 57 of the Fees and Payment Principles (No.2) be drafted as follows (suggested amendments are underlined):**

### **57 Disclosure to care recipients**

(1) Within 7 days after an accommodation agreement is entered into between an approved provider of an aged care service and a care recipient or on behalf of the care recipient, the approved provider must notify the care recipient or his or her representative, in writing, that the approved provider will give the care recipient or his or her representative, within 7 days of a request by the care recipient or his or her representative, the following information and documents:

(a) – (g) [same as in the exposure draft]

(h) a copy of any parts of the residential care agreement that relate to refundable deposits, accommodation bonds or entry contributions.

(2) If a care recipient who has paid a refundable deposit, an accommodation bond or an entry contribution or his or her representative requests the approved provider of the service through which the care recipient is being provided with care to give the care recipient or his or her representative the information and documents referred to in subsection (1), the approved provider must give the care recipient or his or her representative the information and documents requested within 7 days after receiving the request.

(3) Within 4 months after the end of each financial year for an approved provider, the approved provider must give each care recipient or his or her representative who has paid a refundable deposit, an accommodation bond or an entry contribution to the approved provider for entry to the aged care service operated by the approved provider:

(a) [same as in the exposure draft]

(b) a written statement that the approved provider will provide, within 7 days of a request by the care recipient or his or her representative, the information and documents referred to in subsection (1).”

**(3) That Part 2, Section 9 (2) of the Fees and Payments Principles 2014 (concerning additional amount agreed by care recipients in an unfunded place) be drafted as follows:**

The maximum daily amount of resident fees (*the maximum daily fee*) payable by the care recipient for a day (*the relevant day*) may include an additional amount agreed between the care recipient or his or her representative and the approved provider if:

(a) before entering into the agreement with the care recipient, the approved provider has informed the care recipient or his or her representative, in writing, that the proposed maximum daily fee is more than the maximum daily amount that would have been payable if the care recipient’s place were funded; and

(b) – (c) [same as in the exposure draft]