



Accountability Principles 1998

as amended

made under subsection 96–1 (1) of the

Aged Care Act 1997

This compilation was prepared on 1 March 2007
taking into account amendments up to *Accountability Amendment
Principles 2006 (No. 1)*

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Section 1.1

Note: Part 4.3 of the *Aged Care Act 1997*

Part 4.3 of the *Aged Care Act 1997* is about the responsibilities of an approved provider in relation to accountability for the aged care provided by the approved provider through an aged care service. Sanctions can be imposed on an approved provider that does not comply with its responsibilities under Part 4.3 of the Act (see Part 4.4).

The responsibility of an approved provider under paragraph 63-1 (1) (j) of the Act is to allow people authorised by the Secretary access to an approved provider's residential care service, as required in these Principles, in order to review the certification of the service under section 39-4 of the Act.

The responsibility of an approved provider under paragraph 63-1 (1) (l) of the Act is to allow people acting for accreditation bodies to have such access to an approved provider's residential care service as is specified in these Principles.

Under paragraph 63-1 (1) (m) of the Act, an approved provider is subject to such other responsibilities as are specified in these Principles.

These Principles set out various aspects of the access that must be given by an approved provider to persons for the purposes of paragraphs 63-1 (1) (j), (l) and (m) of the Act.

Part 1 Preliminary

1.1 Name of Principles [see Note 1]

These Principles are the *Accountability Principles 1998*.

1.2 Commencement [see Note 1]

These Principles commence on gazettal.

1.3 Definitions

In these Principles:

Accreditation Grant Principles means the *Accreditation Grant Principles 1999* made under subsection 96-1 (1) of the Act.

Act means the *Aged Care Act 1997*.

business hours means the hours between 9 am and 5 pm on a business day.

Committee Principles means the *Committee Principles 1997* made under section 96-3 of the Act.

premises, for a residential care service, means any place where the operation or administration of the service occurs.

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1.4 Meaning of *representative*

- (1) In these Principles, ***representative*** means the following persons or bodies:
- (a) a person or body authorised by the Secretary to access a residential care service to review the certification of the service under section 39-4 of the Act;
 - (b) a person, acting for an accreditation body, who is a quality assessor registered for the Accreditation Grant Principles;
 - (c) a member of a Residential Care Standards Review Committee mentioned in Chapter 2 of the Committee Principles;
 - (d) the Secretary, in relation to the Secretary's functions under Divisions 2 and 4 of Part 2 of Chapter 3 of the Committee Principles;
 - (e) a person appointed as a mediator under section 10.55 of the Committee Principles;
 - (f) a member of a Complaints Resolution Committee mentioned in Division 6 of Part 2 of Chapter 3 of the Committee Principles;
 - (g) a member of a Determinations Review Panel mentioned in Division 7 of Part 2 of Chapter 3 of the Committee Principles.
- (2) However, a person mentioned in subsection (1) is not a representative if the person is an authorised officer under the Act.

Note: Definitions

A number of expressions used in these Principles are defined in the *Aged Care Act 1997* (see Dictionary in Schedule 1), including:

- | | |
|------------------------|-----------------------------|
| • accommodation bond | • authorised officer |
| • accommodation charge | • business day |
| • accreditation body | • care |
| • aged care | • certification |
| • aged care service | • charge exempt resident |
| • approved provider | • residential care service. |

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Part 2 Access to residential care service by a representative

1.5 Purpose of Part (Act, s 63-1)

This Part sets out various aspects of the access to a residential care service that must be given to a representative by an approved provider who consents to the access.

1.6 Approved provider's responsibilities

- (1) In order to comply with the responsibilities of an approved provider under paragraphs 63-1 (1) (j) and (l) of the Act, the approved provider must allow a representative, other than the persons mentioned in paragraphs (c) to (g) of the definition of *representative* in subsection 1.4 (1), access, as set out in these Principles, to the residential care service operated by the approved provider.
- (2) Under paragraph 63-1 (1) (m) of the Act, an approved provider has the responsibility of allowing a person mentioned in paragraphs (c) to (g) of the definition of *representative* in subsection 1.4 (1), access, as set out in these Principles, to the residential care service operated by the approved provider.

1.7 Notice of access

- (1) Subject to section 1.7B, if a representative requires access to a residential care service, it must give notice of its requirement to the approved provider of the service.
- (2) Notice given under this section must be in writing, unless it is given by a representative mentioned in subsection (3).
- (3) The following representatives may give oral notice:
 - (a) the Secretary, in relation to the Secretary's functions under Divisions 2 and 4 of Part 2 of Chapter 3 of the Committee Principles;
 - (b) a person appointed as a mediator under section 10.55 of the Committee Principles;
 - (c) a member of a Complaints Resolution Committee mentioned in Division 6 of Part 2 of Chapter 3 of the Committee Principles;
 - (d) a member of a Determinations Review Panel mentioned in Division 7 of Part 2 of Chapter 3 of the Committee Principles.
- (4) An approved provider must allow a representative access to the approved provider's residential care service if the representative gives notice under this section.

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1.7A Notification requirements

- (1) Notice given for section 1.7 must tell the approved provider that it may not be complying with its responsibilities under paragraph 63-1 (1) (j), (l) or (m) of the Act if it:
 - (a) refuses consent to the representative's access to the service; or
 - (b) withdraws consent to the representative's access to the service.
- (2) Notice given for section 1.7 must also tell the approved provider that failure by it to comply with a responsibility under paragraph 63-1 (1) (j), (l) or (m) of the Act may result in a sanction being imposed on it under Part 4.4 of the Act.
- (3) Notice given for section 1.7 must also tell the approved provider that an act mentioned in paragraph 1.13 (b) or (c) does not constitute non-compliance with its responsibilities under paragraph 63-1 (1) (j), (l) or (m) of the Act.

1.7B When notice of access is not required

A person, acting for an accreditation body, who is a quality assessor registered for the Accreditation Grant Principles may access an approved provider's residential care service without giving notice to the approved provider.

1.8 Consent to access service — general rule

- (1) This section applies to a representative other than a person, acting for an accreditation body, who is a quality assessor registered for the Accreditation Grant Principles.
- (1A) A representative must not access an approved provider's residential care service unless the approved provider has consented to the access.
- (2) The approved provider may withdraw consent at any time.
- (3) The representative must leave the premises of the service if the approved provider asks the representative to do so.
- (4) Before obtaining the consent of an approved provider, the representative must inform the approved provider that the approved provider may refuse to give consent, or withdraw that consent at any time.
- (5) Access by a representative by virtue of the consent of the approved provider is not lawful unless the approved provider voluntarily consented to the access.
- (6) An approved provider must not unreasonably withhold consent if access to the service is required in circumstances where the representative believes, on reasonable grounds, that there is a serious risk to the safety, health or wellbeing of a person receiving care through the service.

Section 1.8A

1.8A Consent to access service — representative who is quality assessor

- (1) A representative who is a person acting for an accreditation body and who is a quality assessor registered for the Accreditation Grant Principles must not access an approved provider's residential care service without the consent of:
 - (a) the approved provider; or
 - (b) a person who is on, and apparently in charge of, the premises (the *person in charge*).
- (2) The approved provider or person in charge may withdraw consent at any time.
- (3) The representative must leave the premises of the service if the approved provider or person in charge asks the representative to do so.
- (4) Before obtaining the consent of an approved provider or person in charge, the representative must inform the approved provider or person in charge that the approved provider or person in charge may refuse to give consent or withdraw that consent at any time.
- (5) Access by a representative by virtue of the consent of the approved provider or person in charge is not lawful unless the approved provider or person in charge voluntarily consented to the access.
- (6) An approved provider or person in charge must not unreasonably withhold consent if access to the service is required in circumstances where the representative believes, on reasonable grounds, that there is a serious risk to the safety, health or wellbeing of a person receiving care through the service.

Note An approved provider who refuses to consent to a representative's access to the service or withdraws consent for a representative's access to the service may not be complying with the approved provider's responsibilities under paragraph 63-1 (1) (j), (l) or (m) of the Act. Failure to comply with a responsibility can result in a sanction being imposed under Part 4.4 of the Act. However, some acts of an approved provider will not constitute failure to comply with those responsibilities (see section 1.13).

1.9 Representative's identification

To obtain access to a residential care service a representative must show the approved provider:

- (a) a letter of authority that sets out:
 - (i) the representative's name; and
 - (ii) the representative's position; and
 - (iii) the matters mentioned in section 1.7A; and
- (b) photographic identification of the representative.

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1.10 Hours of access

- (1) An approved provider must allow a representative access to its residential care service:
 - (a) during business hours; and
 - (b) at any time outside business hours if:
 - (i) the representative is acting on a serious complaint where a care recipient's safety, health or wellbeing may be at risk; or
 - (ii) the representative needs to examine a process or practice of the service that does not occur during business hours.
- (2) However, an approved provider must allow a representative access to its residential care service at any time outside business hours in circumstances other than those set out in paragraph (1) (b) if access during that time is undertaken by the representative in a manner that does not unreasonably disrupt the quality of care and services being provided by the service.
- (3) If an approved provider refuses to allow a representative access at any time outside business hours in circumstances other than those set out in paragraph (1) (b) because access during that time, and in the manner proposed by the representative, would unreasonably disrupt the quality of care and services being provided by the service, the approved provider and the representative must agree on an alternative time for access to the service by the representative that is suitable for the purposes of the access.

1.11 Access to premises, documents etc

- (1) An approved provider must allow a representative access to its residential care service to perform any of the following:
 - (a) to inspect any part of the premises of the residential care service;
 - (b) to take photographs (including a video recording), or make sketches, of the premises, or any substance or thing at the premises;
 - (c) to inspect, examine and take samples of, any substance or thing on or in the premises;
 - (d) to inspect any document or record kept by the approved provider;
 - (e) to take extracts from, or copies of, any document or record kept by the approved provider;
 - (f) to operate any equipment on the premises to see whether the equipment, or a disk, tape or other storage device on the premises that is associated with the equipment, contains any information relevant to the performance of the functions of the representative;
 - (g) to take copies, in documentary form or on a disk, tape or other storage device, of information obtained under paragraph (f) that is relevant to the performance of the functions of the representative;
 - (h) to take onto the premises any equipment or material reasonably necessary for the purpose of performing an action under paragraph (a), (b), (c), (d), (e) or (g).

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- (2) However, the approved provider may refuse to allow a representative to perform the actions mentioned in paragraphs (1) (b), (c), (d), (e) or (g) if the substance, thing, document or record mentioned in the paragraphs is not relevant to the operation or administration by the approved provider of its residential care service.
- (3) Also, the approved provider may refuse to allow a representative to perform:
 - (a) the actions mentioned in paragraphs (1) (b), (c), (d), (e) or (g) in relation to a care recipient, or a care recipient's property, if the care recipient has not consented to the performance of the action; and
 - (b) the actions mentioned in paragraph (1) (b) in relation to a staff member or a contractor, or a staff member's or contractor's property, if the staff member or contractor (as the case requires) has not consented to the performance of the action.

1.12 Access to staff etc

An approved provider must not impede a representative's access to, and ability to question, any person on the premises of its residential care service, including staff, care recipients, visitors and contractors, if the access and questioning by the representative is relevant to the representative's functions and is:

- (a) relevant to the operation or administration by the approved provider of its residential care service; or
- (b) necessary in order to obtain information about whether the service is meeting its obligations under the Act.

1.13 Refusal of access

The following acts by an approved provider do not constitute non-compliance with the approved provider's responsibilities under paragraph 63-1 (1) (j), (l) or (m) of the Act:

- (a) refusing to allow a representative access to its residential care service because the representative has not complied with subsection 1.7 (1), (2) or (3), section 1.7A or 1.9;
- (b) refusing to allow a representative access to its residential care service under subsection 1.10 (3) or 1.11 (2) or (3);
- (c) refusing to allow a representative access to its residential care service because the representative's conduct is inconsistent with section 1.12.

Part 3 Information to be given to Minister

1.14 Purpose of Part (Act, s 63-1)

The purpose of this Part is to specify, for paragraph 63-1 (1) (m) of the Act, the responsibility of an approved provider to give the Minister, on request, information about accommodation bonds and accommodation charges.

1.15 Information about accommodation bonds to be given to Minister

- (1) If the Minister asks an approved provider, in writing, to give the Minister information about accommodation bonds that the Minister needs to prepare a report under section 63-2 of the Act, the provider must comply with the request.
- (2) The Minister must specify a reasonable time for the provider to comply with the request.
- (3) The information may be about:
 - (a) whether the approved provider collects any accommodation bonds; and
 - (b) the amount of the bonds collected (including a nil amount); and
 - (c) repayment of accommodation bonds paid.
- (4) The Minister must not ask for, and the approved provider must not give, personal information relating to an individual care recipient.

Note The disclosure of personal information is, generally speaking, prohibited (see Act, s 62-1).

1.16 Information about accommodation charges to be given to Minister

- (1) If the Minister asks an approved provider, in writing, to give the Minister information about accommodation charges that the Minister needs to prepare a report under section 63-2 of the Act, the provider must comply with the request.
- (2) The Minister must specify a reasonable time for the provider to comply with the request.
- (3) The information may be about:
 - (a) whether the approved provider collects any accommodation charges; and
 - (b) the amount of the charges collected (including a nil amount); and
 - (c) repayment of accommodation charges paid by residents while they were charge exempt residents.

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- (4) The Minister must not ask for, and the approved provider must not give, personal information relating to an individual care recipient.

Note The disclosure of personal information is, generally speaking, prohibited (see Act, s 62-1).

Part 4 Requirements relating to certain staff members and volunteers

Division 1 Preliminary

1.17 Purpose of Part (Act, s 63-1)

The purpose of this Part is to specify, for paragraph 63-1 (1) (m) of the Act, the responsibility of an approved provider to ensure that:

- (a) each staff member and volunteer has the required police certificate and, if necessary, a statutory declaration; and
- (b) persons with certain criminal convictions do not provide aged care.

1.18 Definitions

In this Part:

police certificate, for a person, means a report prepared by the Australian Federal Police or by the police force or police service of a State or Territory about the person's criminal conviction record.

staff member, of an approved provider, means a person who:

- (a) has turned 16; and
- (b) is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruitment agency) to provide care or other services; and
- (c) has, or is reasonably likely to have, unsupervised access to care recipients.

Examples of persons who are staff members:

- key personnel of the approved provider
- employees and contractors of the approved provider who provide care to care recipients
- allied health professionals contracted by the approved provider to provide care to care recipients
- kitchen, laundry, garden and office personnel employed by the approved provider who are reasonably likely to have unsupervised access to care recipients
- consultants, trainers and advisors for accreditation support or systems improvement who are reasonably likely to have unsupervised access to care recipients

Examples of persons who are not staff members:

- visiting medical practitioners, pharmacists and other allied health professionals who have been requested by, or on behalf of, a care recipient but are not contracted by the approved provider
- trades people and management consultants who do not have unsupervised access to care recipients

volunteer, for an approved provider, means a person who:

- (a) is not a staff member; and
- (b) offers his or her services to the approved provider; and

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- (c) provides care or other services on the invitation of the approved provider and not solely on the express or implied invitation of a care recipient; and
- (d) has, or is reasonably likely to have, unsupervised access to care recipients; and
- (e) has turned 16 or, if the person is a full-time student, has turned 18.

Division 2 Responsibilities of approved providers

1.19 Conditions for all new staff members and volunteers

An approved provider must not allow a person to become a staff member or volunteer unless the approved provider is satisfied that:

- (a) subject to section 1.22, there is for the person a police certificate that is dated not more than 3 years before the day on which the person first becomes a staff member or volunteer; and
- (b) the police certificate does not record that the person has been:
 - (i) convicted of murder or sexual assault; or
 - (ii) convicted of, and sentenced to imprisonment for, any other form of assault.

1.20 Additional condition for certain new staff members and volunteers

- (1) This section applies to a person who, at any time after the person turned 16, was a citizen or permanent resident of a country other than Australia.
- (2) An approved provider must not allow a person to whom this section applies to become a staff member or volunteer unless the approved provider is satisfied that, in addition to meeting the conditions in section 1.19, the person has made a statutory declaration stating that the person has never been:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.

1.21 Continuing responsibilities of approved providers

- (1) An approved provider must ensure that, except for the period under section 1.22, 1.23 or 1.25 when a person is allowed not to have a police certificate, there is for each person who is a staff member or volunteer a police certificate that is, at all times during which the person remains a staff member or volunteer, not more than 3 years old.
- (2) An approved provider must ensure that a person who is a staff member or volunteer must not be allowed to continue as a staff member or volunteer if there is for the person a police certificate or statutory declaration that records that the person has been:
 - (a) convicted of murder or sexual assault; or

- (b) convicted of, and sentenced to imprisonment for, any other form of assault.

1.22 Arrangements for new staff members or volunteers who do not yet have police certificates

A person who does not have a police certificate required under section 1.19 may become a staff member or volunteer if:

- (a) the care or other service to be provided by the person is essential; and
- (b) an application for a police certificate has been made before the date on which the person first becomes a staff member or volunteer; and
- (c) the person will be subject to appropriate supervision during periods when the person has access to care recipients; and
- (d) the person makes a statutory declaration stating that the person has never been:
 - (i) convicted of murder or sexual assault; or
 - (ii) convicted of, and sentenced to imprisonment for, any other form of assault.

Division 3 Transitional provisions

1.23 Conditions for all existing staff members

For a person who is a staff member on 1 March 2007 and who continues to be a staff member on 1 June 2007, an approved provider must ensure that:

- (a) there is by 1 June 2007 a police certificate that is dated not earlier than 1 June 2004; or
- (b) if there is no such police certificate, an application for a police certificate has been made.

1.24 Additional condition for certain existing staff members

- (1) This section applies to a person:
 - (a) who is a staff member on 1 March 2007; and
 - (b) who continues to be a staff member on 1 June 2007; and
 - (c) who, at any time after the person turned 16, was a citizen or permanent resident of a country other than Australia.
- (2) For a person to whom this section applies, an approved provider must ensure that, in addition to meeting the condition in paragraph 1.23 (a) or (b), the person has made by 1 June 2007 a statutory declaration stating that the person has never been:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.

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1.25 Conditions for all existing volunteers

For a person who is a volunteer on 1 March 2007 and who continues to be a volunteer on 1 September 2007, an approved provider must ensure that:

- (a) there is by 1 September 2007 a police certificate that is dated not earlier than 1 September 2004; or
- (b) if there is no such police certificate, an application for a police certificate has been made.

1.26 Additional condition for certain volunteers

- (1) This section applies to a person:
 - (a) who is a volunteer on 1 March 2007; and
 - (b) who continues to be a volunteer on 1 September 2007; and
 - (c) who, at any time after the person turned 16, was a citizen or permanent resident of a country other than Australia.
- (2) For a person to whom this section applies, an approved provider must ensure that, in addition to meeting the condition in paragraph 1.25 (a) or (b), the person has made by 1 September 2007 a statutory declaration stating that the person has never been:
 - (a) convicted of murder or sexual assault; or
 - (b) convicted of, and sentenced to imprisonment for, any other form of assault.

1.27 Declaration about compliance

- (1) An approved provider must, for each aged care service operated by the approved provider between 1 March 2007 and 1 September 2007, give to the Secretary on or before 30 September 2007 a written declaration stating whether the approved provider complied with the requirements of this Part as at 1 September 2007.
- (2) A declaration under this section:
 - (a) must be in the form approved by the Secretary; and
 - (b) must be signed by a key personnel authorised by the approved provider to sign the declaration; and
 - (c) must include all the information required by the form; and
 - (d) must not contain any information that is false or misleading in a material particular.

Table of Principles**Notes to the *Accountability Principles 1998*****Note 1**

The *Accountability Principles 1998* (in force under subsection 96-1 (1) of the *Aged Care Act 1997*) as shown in this compilation are amended as indicated in the Tables below.

Under the *Legislative Instruments Act 2003*, which came into force on 1 January 2005, it is a requirement for all non-exempt legislative instruments to be registered on the Federal Register of Legislative Instruments.

Table of Principles

Title	Date of notification in <i>Gazette</i> or FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>Accountability Principles 1998</i>	22 July 1998 (see <i>Gazette</i> 1998, No. GN29)	22 July 1998	
<i>Accountability Amendment Principles 1999 (No. 1)</i>	15 Sept 1999 (see <i>Gazette</i> 1999, No. GN37)	15 Sept 1999	—
<i>Accountability Amendment Principles 1999 (No. 2)</i>	19 Jan 2000 (see <i>Gazette</i> 2000, No. GN2)	19 Jan 2000	—
<i>Accountability Amendment Principles 2006 (No. 1)</i>	22 Dec 2006 (see F2006L04227)	Ss. 1–3 and Schedule 1: 23 Dec 2006 Remainder: 1 Mar 2007	—

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 1.3.....	am. No. 1, 1999
S. 1.4.....	am. No. 1, 1999
Note to s. 1.4.....	am. No. 2, 1999
Part 2	
S. 1.7.....	rs. No. 1, 1999 am. No. 1, 2006
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S. 1.27.....	ad. No. 1, 2006