



Allocation Amendment (Various Measures) Principle 2013

I, Jacinta Collins, Minister for Mental Health and Ageing, make the following principle under the *Aged Care Act 1997* and the *Aged Care (Living Longer Living Better) Act 2013*.

Dated: 8 July 2013

Jacinta Collins
Minister for Mental Health and Ageing

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1 Name of principle

This principle is the *Allocation Amendment (Various Measures) Principle 2013*.

2 Commencement

This principle commences on 1 August 2013.

3 Authority

This principle is made under the *Aged Care Act 1997* and the *Aged Care (Living Longer Living Better) Act 2013*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Allocation Principles 1997

1 Section 4.3

Repeal the following definitions:

- (a) definition of *care-leaver*;
- (b) definition of *institutional care*;
- (c) definition of *intersex people*;
- (d) definition of *key personnel*;
- (e) definition of *LGBTI*;
- (f) definition of *person with financial hardship*.

2 Section 4.3 (at the end of the definition of *planning objectives*)

Add:

Note: The planning objectives relate to providing an open and clear planning process, identifying community needs and allocating places in a way that best meets the identified needs of the community.

3 Section 4.3

Repeal the following definitions:

- (a) definition of *transgender*;
- (b) definition of *veteran*.

4 Section 4.3 (note after the definition of *veteran*)

Repeal the note.

5 Section 4.3

Omit:

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
- balance
- aged care
- approved provider
- care
- certified
- people with special needs
- place
- provisional allocation
- provisional allocation period
- relinquish
- residential care
- respite care.

substitute:

Note: A number of expressions used in these Principles are defined in the Act, including the following:
(a) key personnel;

- (b) people with special needs;
- (c) relinquish.

6 Section 4.4

Repeal the section.

7 Part 2A

Repeal the Part.

8 Division 2 of Part 3

Repeal the Division.

9 Paragraphs 4.18(2C)(d) to (g)

Repeal the paragraphs, substitute:

- (d) the delivery of aged care services to people with special needs.

10 Paragraphs 4.18(3)(c) to (f)

Repeal the paragraphs, substitute:

- (c) the delivery of aged care services to people with special needs.

11 Section 4.35

Omit “additional matters that the Secretary must consider, in relation to each application for the allocation of places for community care”, substitute “the matters that the Secretary must consider, in relation to each application for the allocation of places for home care”.

12 Before section 4.38

Insert:

4.37 Competitive assessment of applications for allocations

- (1) The Secretary must consider the following:
 - (a) whether the people who manage, or propose to manage, the aged care service that is providing, or would provide, the care to which the places relate have the necessary expertise and experience to do so;
 - (b) if applicable, whether the premises used, or intended to be used, to provide the care to which the places relate are suitably planned and located for the provision of aged care;
 - (c) the ability of the applicant to provide the appropriate level of care;
 - (d) if the applicant has been a provider of aged care—the applicant’s:
 - (i) conduct as a provider; and
 - (ii) compliance with its responsibilities as a provider and its obligations arising from the receipt of any payments from the Commonwealth for providing that aged care;
 - (e) if the applicant has relevant key personnel in common with a person who is or has been an approved provider—that person’s:
 - (i) conduct as a provider of aged care; and

- (ii) compliance with its responsibilities as a provider and its obligations arising from the receipt of any payments from the Commonwealth for providing that aged care;
- (f) the measures that the applicant proposes to implement:
 - (i) to protect the rights of care recipients; and
 - (ii) for the provision of appropriate care for care recipients who are people with special needs.
- (2) The reference in paragraphs (1)(d) and (e) to aged care includes a reference to any care for the aged, whether provided before or after the commencement of this section, in relation to which any payment was or is payable under a law of the Commonwealth.
- (3) For paragraph (1)(e), the applicant has *relevant key personnel in common* with a person who is or has been an approved provider (the *other provider*) if:
 - (a) at the time the other provider provided aged care, another person was one of the other provider's key personnel; and
 - (b) that other person is one of the key personnel of the applicant.

13 Division 3 of Part 5

Repeal the Division.

14 Section 4.49

Repeal the section, substitute:

4.49 Matters to which Secretary must have regard

- (1) If the allocation is of places in respect of residential care subsidy, the matters are:
 - (a) whether the person has received, from authorities in the State or Territory where the residential care service is located, authorisation that the service's premises can be occupied; and
 - (b) whether the person has applied for accreditation of the service, and has paid all application fees; and
 - (c) whether the person has made arrangements for the efficient management and operation of the service; and
 - (d) the results of any inspection of the premises by officers of the Department.
- (2) The Secretary may also have regard to any other relevant matter.

15 Division 2 of Part 7 (heading)

Omit "community care", substitute "home care".

16 Section 4.58

Omit "community care", substitute "home care".

17 Paragraph 4.59(2)(d)

Omit "community care" (wherever occurring), substitute "home care".

18 Section 4.60

Omit "community care", substitute "home care".

19 Paragraph 4.61(2)(d)

Omit “community care” (wherever occurring), substitute “home care”.

20 Section 4.63 (example for paragraphs (2)(a) and (b))

Omit “community care”, substitute “home care”.

21 Paragraph 4.65(e)

Omit “or community care grants”.

22 Paragraph 4.66G(2)(d)

Omit “community care” (wherever occurring), substitute “home care”.

23 Subparagraphs 4.68(1)(b)(i) and (d)(iii)

Omit “community care”, substitute “home care”.

24 Section 4.70 (example for paragraph (2)(a))

Omit “community care”, substitute “home care”.

25 Section 4.71

Omit “community care”, substitute “home care”.

26 Section 4.73 (heading)

Omit “community care”, substitute “home care”.

27 Sections 4.73 and 4.74

Omit “community care”, substitute “home care”.

28 Section 4.76 (heading)

Omit “community care”, substitute “home care”.

29 Subsection 4.76(1)

Omit “community care”, substitute “home care”.

30 At the end of the Principles

Add:

Part 10—Transitional provisions**Division 1—Definitions for Part 10****4.80 Definitions for Part 10**

In this Part:

commencement time means the time when this Part commences.

extended aged care at home has the meaning given by section 15.6 of the *Flexible Care Subsidy Principles 1997* as in force immediately before 1 August 2013.

extended aged care at home—dementia has the meaning given by section 15.8 of the *Flexible Care Subsidy Principles 1997* as in force immediately before 1 August 2013.

multi-purpose service has the meaning given by section 15.3 of the *Flexible Care Subsidy Principles 1997*.

old law means the *Aged Care Act 1997* as in force immediately before the commencement time.

Division 2—Allocation of places

4.81 Transition of certain flexible care places to home care places

For subitem 197(2) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*, the following kinds of flexible care are specified:

- (a) extended aged care at home;
- (b) extended aged care at home—dementia.

Note: An allocation of places in respect of these kinds of flexible care is taken, in particular circumstances, to have been done in respect of home care: see subitem 197(2) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*.

Division 3—Transition of certain allocated places to home care places

4.82 Purpose of Division 3

For subitem 199(1) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*, this Division provides for:

- (a) the transition of places allocated in respect of community care or flexible care to places allocated in respect of home care; and
- (b) matters relating to that transition.

4.83 Transition of community care, and certain flexible care, places to home care places

- (1) For the purposes of subitem 197(1) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*, an allocation of community care places of a kind or level mentioned in an item of the following table is taken, after the commencement time, to be an allocation of home care places of the level mentioned in that item of the table.

Transition of allocated places—community care		
Item	Kind or level of community care place	Level of home care place
1	Level 1	Level 1
2	Level 2	Level 2
3	Level 3	Level 3

Transition of allocated places—community care		
Item	Kind or level of community care place	Level of home care place
4	Level 4	Level 4
5	Community care (other than a place mentioned in items 1 to 4)	Level 2

- (2) For the purposes of subitem 197(2) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*, an allocation of flexible care places of a kind mentioned in an item of the following table is taken, after the commencement time, to be an allocation of home care places of the level mentioned in that item of the table.

Transition of allocated places—flexible care		
Item	Kind of flexible care place	Level of home care place
1	Extended aged care at home	Level 4
2	Extended aged care at home—dementia	Level 4

4.84 Agreements in force immediately before commencement time

- (1) If:
- (a) immediately before the commencement time, an agreement was in force between the person who was allocated a community care place mentioned in subsection 4.83(1) and the Secretary (for the Commonwealth); and
 - (b) the agreement was required to be entered into as a condition of the allocation of the place under section 14-6 of the Act;
- the agreement ceases to be in force at the commencement time.
- (2) If:
- (a) immediately before the commencement time, an agreement was in force between the person who was allocated a flexible care place mentioned in subsection 4.83(2) and the Secretary (for the Commonwealth); and
 - (b) the agreement is a payment agreement under section 15.12 of the *Flexible Care Subsidy Principles 1997* as in force immediately before 1 August 2013;
- the agreement ceases to be in force at the commencement time.
- (3) If an agreement mentioned in subsection (1) relating to a community care place, or an agreement mentioned in subsection (2) relating to a flexible care place, included a condition relating to any of the following:
- (a) the proportion of care to be provided to a specified group or groups of people;
 - (b) the location of the aged care service through which the care must be provided;
 - (c) the period within which the aged care service must be operational;

the condition continues in force after the commencement time as a condition of allocation of the corresponding home care place as if the Secretary had, in writing, specified the condition under section 14-5 of the Act.

4.85 Conditions relating to transitioned places

- (1) This section applies if, immediately before the commencement time, an allocation of community care places mentioned in subsection 4.83(1), or an allocation of flexible care places mentioned in subsection 4.83(2), was subject to:
 - (a) a condition, in writing, under section 14-5 or 14-6 of the Act; or
 - (b) a condition mentioned in paragraph 4.84(3)(a), (b) or (c) that was included in an agreement mentioned in subsection 4.84(1) or (2).
- (2) If the condition related to an allocation of community care places, the condition continues in force after the commencement time as if:
 - (a) a reference to community care were a reference to home care; and
 - (b) a reference to a community aged care package or CACP were a reference to home care level 2; and
 - (c) a reference to a place allocated in respect of community care, or a community care place, were a reference to a level 2 home care place.
- (3) If the condition related to an allocation of flexible care places, the condition continues in force after the commencement time as if:
 - (a) a reference to flexible care were a reference to home care; and
 - (b) a reference to extended aged care at home or EACH were a reference to home care level 4; and
 - (c) a reference to extended aged care at home—dementia or EACH-D were a reference to home care level 4; and
 - (d) a reference to a place allocated in respect of extended aged care at home or EACH were a reference to a level 4 home care place; and
 - (e) a reference to a place allocated in respect of extended aged care at home—dementia or EACH-D were a reference to a level 4 home care place.
- (4) However, if the condition was that there must be an agreement, relating to the allocation of places, between the person who was allocated a community care place or a flexible care place and the Secretary (for the Commonwealth), the condition is taken to be revoked at the commencement time.

Division 4—Transition of certain flexible care (multi-purpose service) places

4.86 Purpose of Division 4

For subitem 199(1) of Schedule 1 to the *Aged Care (Living Longer Living Better) Act 2013*, this Division provides for:

- (a) the transition of certain flexible care places allocated in respect of a multi-purpose service; and
- (b) matters relating to that transition.

4.87 Transition of certain flexible care (multi-purpose service) places

- (1) This section applies to a flexible care place allocated in respect of a multi-purpose service for the provision of care equivalent to community care if the allocation:
 - (a) was made under Part 2.2 of the old law; and
 - (b) was in force immediately before the commencement time.
- (2) The place is taken, after the commencement time, to be a flexible care place allocated in respect of a multi-purpose service for the provision of care equivalent to home care.

4.88 Conditions relating to transitioned places

- (1) This section applies if, immediately before the commencement time, an allocation mentioned in subsection 4.87(1) was subject to a condition, in writing, under section 14-5 or 14-6 of the Act.
- (2) The condition continues in force after the commencement time as if a reference to community care were a reference to home care.