



**Subject:** Security of tenure for inpatients of public hospitals who are also residents of aged care facilities.

---

## 1. Purpose:

The following guidelines have been developed to facilitate a consistent approach for WA Health services when working with patients who are existing aged care residents and whose ongoing care needs have changed.

## 2. Background:

The Commonwealth Government administers the Aged Care Act 1997, including the performance of aged care service providers, via the Department of Health and Ageing. The Act clearly defines the obligations of aged care providers in relation to Security of Tenure (see <http://www.health.gov.au/initiatives-and-programs/residential-aged-care/managing-residential-aged-care-services/exiting-residents-from-residential-aged-care>), which include the requirement that aged care providers ensure that appropriate alternative accommodation is available for an existing resident before that resident can be required to leave the aged care service. This includes residential aged care provided as part of a Multi-Purpose Service (MPS).

Security of Tenure applies even if the resident's ongoing care needs have changed, including requiring a higher or more complex level of care than the provider can routinely administer using its normal care provision model, while a more appropriate alternative is developed or ongoing care at the required level is maintained. **Please note that hospital is not considered to be appropriate alternative accommodation.**

Despite this requirement, there have been occasions in which residents of an aged care facility have been admitted to a public hospital and, when assessed as having changed ongoing care needs, have not been re-accepted by the aged care facility when the resident has completed her or his acute and sub-acute care.

While the number of occasions in which this situation occurs is not high in relation to the total number of admissions to public health services, the period of time an existing aged care resident spends as Care Awaiting Placement (CAP) in a health service or CAP facility can be significant. It means that the patient must await permanent placement while in a temporary facility that is not her or his home, without the support of carers who are familiar with her or his needs. It can also increase the risk of access block within public health services.

Compliance with the existing requirements of the *Aged Care Act 1997* in regards to Security of Tenure is one of a number of strategies designed to minimise potential negative impacts on hospital ALOS, and to ensure that existing aged care residents are cared for in an environment that best meets all of their needs.

### 3. Responsibilities of Health Services:

As in all good discharge planning, the care needs of the patient must take priority and planning should start as early as possible in the acute episode. Some aged care facilities will not routinely be able to provide for any changes in the ongoing care needs of a resident. All aged care facilities will need clear, detailed and specific information about what a returning patient's care needs are, with particular emphasis on identifying any changes from the patient's pre-morbid functioning. The facility may also need a realistic timeframe to set up additional specialised care services, such as a Registered Nurse to provide wound care, administer medications, etc or additional carer hours to provide increased assistance with feeding, personal care, etc. Under the User Rights Principles, it would be the aged care service provider's responsibility to broker and fund these services until the patient leaves the facility, should an appropriate alternative be necessary.

If a patient, who is an existing aged care resident, is assessed as having changed ongoing care needs, including requiring high-level residential aged care, the following steps should be taken:

1. The Manager/Director of Nursing of the patient's aged care facility should be informed by the appropriate ward staff when the patient has been assessed as having changed ongoing care needs, and a discussion should take place to determine the timeframe for return. Ideally, the facility Manager should be advised of any potential changed care needs as soon as possible after this has been recommended by the inpatient treating team to allow for timely preparation for the patient's return. It should be noted that final eligibility for Commonwealth funded aged care services, including a change of level, remains the responsibility of the ACAT to determine.
2. It should be stated at the time of contact with the aged care facility that the patient will be returning to the facility in line with the Security of Tenure requirements of the Aged Care Act 1997, **once her or his acute and sub-acute care is completed.**
3. A care plan detailing all of the assessed clinical health care needs of the patient should be provided **as soon as possible** to the aged care facility, and **definitely prior to discharge**, with specific emphasis on those care needs that have changed from the patient's pre-morbid functioning. A cover letter (see Appendix A).
4. The discharge date will need to be negotiated between the discharging hospital and the aged care facility where that facility does not have the immediate capacity to provide for the returning patient's care needs. **In all cases, the needs of the patient take priority.**
5. Where there are concerns regarding any aspect of this process that cannot be negotiated between the discharging hospital and the aged care facility, the relevant agencies listed below should be contacted. Concerns may include, for example, the proposed timeframe needed for an aged care provider to meet the care needs of a returning patient.

### 4. Contacts:

**Please direct any queries from patients, their carers or families to the Older Persons Advocacy Network (contact number below) in the first instance.**

- For queries regarding Security of Tenure, the User Right's Principles or the Aged Care Act, 1997, please contact:

The Commonwealth Government's **Older Persons Advocacy Network (OPAN)** on: (Freecall) **1800 700 600**

- For concerns regarding an Aged Care Service Facility, please contact:

The **Aged Care Quality and Safety Commission** on: (Freecall) **1800 951 822**

**This information is available in alternative formats upon a request from a person with a disability.**

## Appendix A: Example of Letter to Aged Care Facility

Insert Health Service name/Logo

Insert Aged Care Facility Manager name, address and fax details

To Whom It May Concern:

Re: Insert returning patient's name and date of birth

Please find attached a care plan detailing the care requirements of the above resident of your facility completed as part of this admission.

This letter should be accepted as confirmation that the above person has completed all aspects of their acute and/or subacute care, and is ready to transfer back to your facility while the above person's long-term care needs are addressed.

Under sections 26.5 and 26.6 of the User Rights Principles as part of the Aged Care Act, 1997, responsibility for the provision of ongoing care to the above person rests with your service. This may involve the development of an appropriate alternative should your facility not have the capacity to maintain ongoing care at the required level.

If you have any queries regarding the assessed care needs of the above person or the recommendations, please contact **Insert name and contact number of appropriate Health Service contact**.

For queries regarding the Security of Tenure under the User Rights Principles of the Aged Care Act, 1997, please contact the **Older Persons Advocacy Network (OPAN)** on: (Freecall) **1800 700 600**.

Regards

Insert signature of appropriate Health Service contact, name, address and telephone details  
Add date