



FACT SHEET: COMPULSORY REPORTING

Compulsory reporting

Abuse in any of its forms is unacceptable and is regarded as a criminal offence in Australia. In 2007 a range of measures was introduced, aimed at further improving the quality of aged care and ensuring the protection of care recipients. These measures include police checks for staff members and volunteers, the compulsory reporting of incidents of sexual and serious physical assault in residential aged care and protections for those who report.

In relation to compulsory reporting from 1 July 2007 all approved providers must report a reportable assault. Schedule 2 of the *Aged Care Act 1997* defines a **reportable assault** as unlawful sexual contact or unreasonable use of force that is inflicted on a person receiving care in a residential aged care service subsidised by the Commonwealth Government. Reports must be made, within 24 hours, to the police and the Aged Care Complaints Investigation Scheme on 1800 550 552 (free call). Providers must also:

- alert staff to compulsory reporting requirements
- require staff members to report reportable assaults to specified people in the service
- maintain consolidated records of all incidents involving allegations or suspicions
- ensure staff members who make reports are protected from victimisation; and
- protect the informant's identity.

In this section of the Act a **staff member** of an approved provider means an individual who is employed, hired, retained or contracted by the approved provider (whether directly or through an employment or recruiting agency) to provide care or other services.

Discretion not to report

The compulsory reporting legislation provides discretion not to report assaults where the alleged perpetrator is a resident with a cognitive or mental impairment. This enables such cases to be clinically and behaviourally managed by the approved provider. In applying discretion an approved provider must meet the following conditions:

- there are reasonable grounds for believing the perpetrator is a resident
- prior to any alleged assault, the resident has been diagnosed by a medical practitioner (e.g. GP or Geriatrician) with a mental impairment* and documentation exists showing that the resident is mentally impaired; and
- the approved provider has in place a behaviour management plan in relation to the resident (and a record kept of all such incidents is available on inspection).

Protection for those required to report

Approved providers and staff who report under the compulsory reporting requirements will be protected from workplace discrimination and defamation action under the *Aged Care Act 1997*.

Approved providers are required to have policies and procedures in place to ensure that staff who make disclosures are protected and that staff are not treated unfairly as a result of making a report in accordance with the compulsory reporting requirements.

Note: For a broader understanding of compulsory reporting please visit the website of the Department of Health and Ageing at www.health.gov.au or use the link provided through the Commissioner's website. You may also contact the Scheme by calling 1800 550 552.

* *Mental impairment includes senility, intellectual disability, mental illness, brain damage and severe personality disorder. Criminal Code Act 1995.*