

EXPOSURE DRAFT



EXPOSURE DRAFT (13 April 2015)

User Rights Amendment (Consumer Directed Care) Principles 2015

I, Mitch Fifield, Assistant Minister for Social Services, make the following principles.

Dated 2015

Mitch Fifield [**DRAFT ONLY—NOT FOR SIGNATURE**]
Assistant Minister for Social Services

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules	1
	Schedule 1—Amendments	2
	<i>User Rights Principles 2014</i>	2

EXPOSURE DRAFT

1 Name

These are the *User Rights Amendment (Consumer Directed Care) Principles 2015*.

2 Commencement

This instrument commences on 1 July 2015.

3 Authority

This instrument is made under section 96-1 of the *Aged Care Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

EXPOSURE DRAFT

Schedule 1—Amendments

User Rights Principles 2014

1 At the end of Division 3 of Part 3

Add:

21A Individualised budget to be given to care recipient

- (1) An approved provider of a home care service must give a written individualised budget to each care recipient.
 - (2) The individualised budget must:
 - (a) be prepared having regard to the care recipient's goals and assessed needs, and the services and resources available and selected by the care recipient; and
 - (b) set out an itemised budget for the home care to be provided to the care recipient, as set out in the care recipient's care plan; and
 - (c) set out:
 - (i) the amount of home care subsidy payable to the approved provider for the care recipient in respect of the period agreed between the care recipient and the provider; and
 - (ii) the maximum amount of home care fees payable by the care recipient in respect of that period.
- Note 1: The amount of home care subsidy payable to the approved provider for the care recipient in respect of a payment period (that is a calendar month) is worked out under section 48-1 of the Act or section 48-1 of the *Aged Care (Transitional Provisions) Act 1997* (as the case requires).
- Note 2: The maximum amount of home care fees payable by the care recipient is worked out under Division 52D of the Act or Division 60 of the *Aged Care (Transitional Provisions) Act 1997* (as the case requires).
- (3) The individualised budget must be given to the care recipient before, or within 14 days after, the care recipient commences receiving home care through the home care service.
 - (4) The approved provider must review and, if necessary, revise the individualised budget for the care recipient if:
 - (a) a change to the care and services to be provided to the care recipient through the home care service is proposed; or
 - (b) the costs of providing the care and services change.
 - (5) If the individualised budget for a care recipient is reviewed and revised under subsection (4), the approved provider must give the care recipient a copy of the revised individualised budget.

21B Monthly statement of income and expenditure to be given to care recipient

- (1) An approved provider of a home care service must give each care recipient to whom the provider provides home care, during a calendar month starting on or

after 1 July 2015, a written statement of the income and expenditure in respect of the home care provided to the care recipient during the month.

- (2) The monthly statement must specify the following:
- (a) the amount of home care subsidy payable to the approved provider for the care recipient in respect of the month;
 - (b) the total amount of home care fees paid, or payable, by the care recipient in respect of the month;
 - (c) the total amount spent by the approved provider in providing home care to the care recipient during the month;
 - (d) an itemised list of the care and services provided to the care recipient during the month and the total amount spent in relation to each kind of care or service;
 - (e) the total amount (if any) of funds received, or to be received, in respect of any previous month for the provision of home care to the care recipient that have not been spent;
 - (f) that any amount of home care fees paid by the care recipient to the approved provider that has not been spent, and that is not refundable under paragraph 52D-1(2)(d) of the Act and section 13 of the *Fees and Payments Principles 2014 (No. 2)*, will not be refunded to the care recipient if the provider ceases to provide home care to the care recipient.
- (3) The statement must be given to the care recipient as soon as practicable after the approved provider has all the necessary information in respect of the calendar month to which the statement relates.

2 Subparagraph 23(2)(b)(i)

Repeal the subparagraph.

3 Subparagraph 23(2)(b)(v)

Repeal the subparagraph, substitute:

- (v) that the provider will give a care plan and an individualised budget, and any changes to those documents, to the care recipient;

4 After paragraph 23(2)(c)

Insert:

- (ca) a statement specifying that the provider will give the care recipient a statement of income and expenditure in respect of each calendar month for the care and services provided to the care recipient during the month;
- (cb) a statement specifying that any amount of home care fees paid by the care recipient to the approved provider that has not been spent, and that is not refundable under paragraph 52D-1(2)(d) of the Act and section 13 of the *Fees and Payments Principles 2014 (No. 2)*, will not be refunded to the care recipient if the provider ceases to provide home care to the care recipient;

5 After Part 4

Insert:

EXPOSURE DRAFT

Part 5—Transitional provisions

Division 1—Transitional provisions relating to the User Rights Amendment (Consumer Directed Care) Principles 2015

25 Individualised budgets for care recipients being provided with home care

Individualised budget given to care recipient before 1 July 2015

- (1) Subsections (2) and (3) apply in relation to an approved provider of a home care service if:
 - (a) the approved provider is providing, or is to provide, home care to a care recipient on or after 1 July 2015; and
 - (b) before 1 July 2015, the approved provider had given a written individualised budget to the care recipient in accordance with a condition of the allocation of the places to the home care service.
- (2) The approved provider is taken to have complied with subsections 21A(1), (2) and (3) in relation to the care recipient.
- (3) To avoid doubt, subsections 21A(4) and (5) apply in relation to the approved provider and the individualised budget.

Individualised budget not given to care recipient before 1 July 2015

- (4) Subsections (5) and (6) apply in relation to an approved provider of a home care service if:
 - (a) the approved provider was providing home care to a care recipient before 1 July 2015; and
 - (b) the approved provider will be continuing to provide home care to the care recipient on or after 1 July 2015; and
 - (c) the approved provider had not, before 1 July 2015, given a written individualised budget to the care recipient in accordance with a condition of the allocation of the places to the home care service.
- (5) The approved provider must comply with subsections 21A(1) and (2) in relation to the care recipient as soon as practicable after 1 July 2015.
- (6) Subsection 21A(3) does not apply in relation to the approved provider and the care recipient.

26 Home care agreements

The amendments of subsection 23(2) of these principles made by items 2, 3 and 4 of Schedule 1 to the *User Rights Amendment (Consumer Directed Care) Principles 2015* apply in relation to a home care agreement entered into between a care recipient and an approved provider on or after 1 July 2015.

6 Subclauses 1(2) and (3) of Schedule 2

Repeal the subclauses, substitute:

Consumer directed care—choice and flexibility

- (2) Each care recipient has the following rights:
- (a) to be supported by the approved provider:
 - (i) to set goals in relation to the outcomes he or she seeks from home care; and
 - (ii) to determine the level of ongoing involvement and control that he or she wishes to have in the provision of the home care; and
 - (iii) to make decisions relating to his or her own care; and
 - (iv) to maintain his or her independence as far as possible;
 - (b) to choose the care and services that best meet his or her goals and assessed needs within the limits of the services and resources available;
 - (c) to have choice and flexibility in the way the care and services are provided at home;
 - (d) to participate in making decisions that affect him or her;
 - (e) to have his or her representative participate in decisions relating to his or her care if he or she does not have capacity.

Consumer directed care—care and services

- (3) Each care recipient has the following rights:
- (a) to receive reliable, coordinated, safe, quality care and services which are appropriate to meeting his or her goals and assessed needs;
 - (b) to be given before, or within 14 days after, he or she commences receiving home care, a written plan of the care and services that he or she expects to receive;
 - (c) to receive care and services that take account of his or her other care arrangements and cultural, linguistic and religious preferences;
 - (d) to ongoing review of the care and services he or she receives (both periodic and in response to changes in his or her personal circumstances), and modification of the care and services as required.

Consumer directed care—individualised budget and monthly financial statements

- (3A) Each care recipient has the following rights:
- (a) to be given before, or within 14 days after, he or she commences receiving home care, an individualised budget for the care and services to be provided;
 - (b) to have his or her individualised budget reviewed, and if necessary revised, if the care and services to be provided, or the costs of providing the care and services, change;
 - (c) to receive a monthly statement of income and expenditure in respect of the care and services provided during the month.