

17 June 2011

Mr Iain Scott
First Assistant Secretary
Office of Aged Care Quality and Compliance
Department of Health and Ageing
GPO Box 9848,
Canberra ACT 2601

(Via email to agedcomplaintscomms@health.gov.au)

Dear Mr Scott

Re: The Aged Care Complaints Scheme's Service Charter

ACON welcomes the review of the Aged Care Complaints Scheme and this opportunity to provide feedback on the draft service charter titled *Our Service Commitment*. ACON is Australia's largest gay, lesbian, bisexual and transgender (GLBT) health and HIV/AIDS organisation. Currently ACON is also a recipient of a funding grant from the Department of Health and Ageing to develop and pilot GLBT sensitivity training packages to aged care service providers.

We are pleased to support an expanded and more comprehensive service charter similar to that proposed in this consultation draft. However, ACON is concerned that the commitment to confidentiality in the current charter appears absent in the draft new charter. We also seek a clearly articulated commitment to equality of treatment for people from diverse backgrounds, include GLBT people, and clearer information for clients about what matters can and cannot be addressed.

A clear commitment to equality and a demonstration of the Aged Care Complaints Scheme's sensitivity to diversity is especially important to the GLBT community as they currently lack Commonwealth anti-discrimination protections and were not mentioned explicitly in the *Draft Revised Standards for Residential Aged Care* (the draft Standards). Without other mechanisms, such as robust accreditation standards or anti-discrimination legislation protecting GLBT clients, the Aged Care Complaints Scheme is critical to ensure that the objects of the *Aged Care Act 1997* (Cth) (the Act) are met for the GLBT community.¹

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We note that the advice given in the draft service charter states that the scheme 'cannot address concerns that are not related to an approved provider's responsibilities under the Act'. Although the Act, the draft Standards and other regulations under the Act make reference to general rights, and explicit references to certain characteristics (such as culture, language, gender) are made, there is no explicit mention of sexual orientation or gender identity.

We are extremely concerned that this construction of the Aged Care Complaints Scheme may leave people with complaints regarding the manner in which they have been treated on the basis of their (actual or presumed) sexuality with no recourse to action. We would appreciate clarification on this matter.

We also feel that all clients would benefit from a clearer 'plain English' articulation of what types of complaints the Aged Care Complaints Scheme will allow or disallow.

In relation to GLBT clients, a clarification that complaints can be raised regarding inappropriate or disrespectful treatment on the basis of actual or presumed sexuality would help to reassure people that their concerns will be taken seriously. This could also be achieved through an explicit reference to sexual orientation and gender identity in the draft Standards.

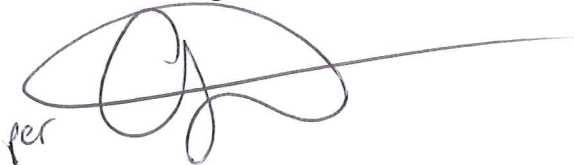
On the matter of confidentiality, the *Review of the Aged Care Complaints Investigation Scheme* by Associate Professor Merrilyn Walton noted that gay, lesbian, bisexual and transgender (GLBT) care recipients can experience difficulties making a complaint against a care provider. To address this issue, the service charter would benefit from a stronger guarantee of confidentiality, including certain contents of the complaint, such as sexual orientation or gender identity, that may lead to further victimisation if revealed to the service provider more broadly.

ACON is also concerned that the service charter encourages complainants to raise their issues to the provider first, as this would expose clients who have experienced a lower standard of care due to their sexual orientation or gender identity to further victimisation and discrimination. ACON recommends that this recommendation be given to clients on a case by case basis, and not be included in the service charter.

ACON has previously brought our concerns regarding the provision of aged care services to the Department of Health and Ageing, including our submission on the review of the Aged Care Complaints Investigation Scheme and the consultation on the draft aged care accreditation standards. These submissions are enclosed with this letter to provide more detailed discussions and recommendations on ensuring that the aged care sector is accessible and open to the GLBT community and people with HIV.

We appreciate that the Aged Care Complaints Scheme and Aged Care more broadly will be further reformed over the next two financial years. ACON would be interested in working with the Department of Health and Ageing to ensure that GLBT communities and people with HIV have equal access to high quality aged care services. If you have any questions or would like to further discuss this matter, the best person to contact is Alan Brotherton, Director of Policy, Strategy and Research on (02) 9206 2048 or email abrotherton@acon.org.au.

Kind regards

per 

Nicolas Parkhill
Chief Executive Officer

ⁱ See Division 2 Section 1 (e), (g) and (h) of the *Aged Care Act 1997* (Cth)