

## Position Statement – Cameras within Residential Aged Care Facilities

The Older Persons Advocacy Network (OPAN) consists of nine advocacy service members.<sup>1</sup> Each member provides advocacy services in their respective Australian state and territory for older people and people with a disability living in aged care homes or receiving in-home care. The advocacy service primarily involves the provision of free and confidential support to aged care recipients in order to promote their rights to aged care service providers.

In recent times there has been media attention and discussion about the use of cameras in aged care. More recently discussion has been triggered by the abuse of an elderly resident of an Adelaide aged care facility and resulting criminal conviction. The abuse was captured on a hidden surveillance camera placed in the resident's room.

**The intention of this policy is to protect the rights of the older person to privacy as well as balancing this with the provision of a safe environment in the place that they live or reside. OPAN supports discussion of the issues and concerns that may have raised the consideration of the placing cameras within the environment. These should be raised with the management of the facility, through OPAN or with the Aged Care Quality and Safety Commission. Strategies to mitigate the risk to the individual and the need for a camera is the preference. The Charter of Aged Care Rights should also be a guide for the consideration of cameras in residential facilities. Readers should seek their own independent advice.**

### *Principles for using Cameras in Aged Care*

OPAN has considered the issues of cameras in older person's room and supports the following ethical principles<sup>2</sup> to guide camera being used in aged care:

#### ***Seven Principles for the Use of surveillance technologies:***<sup>3</sup>

- Any reasonable level of surveillance including cameras is appropriate for common and public areas;
- Aged Care Homes should be able to provide or should be willing to permit or facilitate the use of surveillance technologies including cameras within a resident's room or other private area;
- The location of surveillance technologies should be carefully considered. They should be visible or otherwise clearly known to be present;
- Staff should be fully aware of their responsibilities in relation to surveillance technologies;

<sup>1</sup> <http://opan.org.au/>

<sup>2</sup> Fisk M, Florez-Revuelta F (2016) The Ethics of Using Cameras in Care Homes *Nursing Times*; 112:10 12-13; Fisk MJ (2015a) Surveillance Technologies in Care Homes : Seven principles for their use *Working with Older People*; 19:2:51-59. Australian Ageing Agenda *New Principles to Guide Ethical Surveillance in Care Facilities* 8 April 2015: <http://www.australianageingagenda.com.au/2015/04/08/new-principles-to-guide-ethical-surveillance-in-care-facilities/>

<sup>3</sup> Ibid

- Access to data, images, audio or video footage should be restricted only to authorised persons or agencies in particular defined circumstances;
- Ownership of data, images, audio or video footage;
- Minimising intrusion.

### ***Context & Application of Principles to Aged Care Homes***

It is important to consider the context of an aged care home which is considered the older person's home. Many older people have purchased<sup>4</sup> the quiet use and enjoyment of their room. Notwithstanding whether or not a resident has paid for their place or hold a government subsidised place it is the utmost importance that the rights of the residents with respect to their dignity, self-determination and their privacy are recognised and upheld.

Older people are entitled to bring personal items with them into that space. Aged Care Workers entering resident's rooms are expected to respect privacy including knocking and seeking permission before entering. The Charter of Care Recipients Rights and Responsibilities<sup>5</sup> provides for these rights which includes the right to privacy but also the right to live free from elder abuse.<sup>6</sup> The Charter also provides for choice and control as well as the ability to exercise all legal rights.

OPAN understands that many aged care homes currently utilise camera footage in their common areas. ARAS believes that the use of surveillance cameras in common areas should have visible signs notifying residents, visitors and staff of the use of cameras. OPAN additionally believes that should surveillance cameras be used in a communal common area which can be booked exclusively for the use of a resident and family then the resident or their representative<sup>7</sup> can request the aged care home to switch off the camera to ensure the privacy of the older person. Under no circumstance should cameras in residential aged care facilities be used secretly or covertly; everyone who is subjected to being placed under surveillance by a camera need to be aware of this.

In terms of having a camera in the private areas of an older person's room consent needs to be given to having a camera in the resident's personal space. The issue of shared bedrooms will need to be carefully considered and negotiated on a case by case basis.

### ***Applying the principles:***

- Choice of the older person or their representative to have a camera in their private space;
- Consent to have a camera needs to be informed and clearly documented;
- The model should be opt in rather than opt out;
- Control of the camera should rest with the older person or their representative and include the ability to switch the camera off when wishing to do so;
- Camera surveillance in use should be clearly 'signed' so that aged care workers and visitors are aware of the presence of camera surveillance;
- Ownership of footage should belong to resident;
- An agreed process should be in place for accessing/viewing the footage between the resident and the organisation;

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<sup>4</sup> My Aged Care: Costs explained: <http://www.myagedcare.gov.au/financial-and-legal/aged-care-homes-costs-explained>

<sup>5</sup> *Aged Care Act 1997 Schedule 1* Charter of Care Recipients Rights and Responsibilities – Residential Care: <https://agedcare.health.gov.au/publications-and-articles/guides-advice-and-policies/charter-of-care-recipients-rights-and-responsibilities-residential-care>

<sup>6</sup> Ibid.

<sup>7</sup> <http://advancecareplanning.org.au/>; Check for the relevant jurisdictional information.

- An agreed process should be in place for securing and storing of the footage;
- An agreed process should be in place for actioning any issues of abuse identified on the footage that meets the Approved Providers responsibilities including compulsory reporting;
- The above processes and costs of having camera in place should be agreed to by the resident or their representative and the organisation forming part of a residential agreement noting that the resident or their representative could request at any time for a camera to be activated or deactivated;
- Where an older person is unable to consent then their legal representative should be able to consent on their behalf like any other legal process;
- Disputes between representatives and service providers about the wishes of an older person who is unable to consent should be resolved via mediation between the relevant parties with assistance of an advocate, with assistance of the Aged Care Complaints Commission, or by the relevant jurisdictional Public Advocate or tribunal.<sup>8</sup>

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<sup>8</sup> Eg: Office of the Public Advocate: [http://www.opa.sa.gov.au/what\\_we\\_do/dispute\\_resolution\\_service](http://www.opa.sa.gov.au/what_we_do/dispute_resolution_service) or the equivalent in each jurisdiction.