

## **PUBLIC HEALTH ACT 2016 (WA)**

### **Sections 157(1)(k) and 190(1)(p)**

## **VISITORS TO RESIDENTIAL AGED CARE FACILITIES**

### **DIRECTIONS (NO 5)**

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 p.m. on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016* (WA) (**Act**). The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(k) and 190(1)(p) of the Act.

### **DIRECTIONS**

#### **Preamble**

1. The purpose of these directions is to limit the spread of COVID-19 in residential aged care facilities in the **affected area**.

#### **Citation**

2. These directions may be referred to as the **Visitors to Residential Aged Care Facilities Directions (No 5)**.

#### **Commencement**

3. These directions come into effect at 6 pm on 31 January 2021.

#### **Relationship with other directions**

4. Until otherwise directed:
  - (a) the Visitors to Residential Aged Care Facilities Directions (No 4) (**current directions**) made on 18 September 2020 only apply outside the affected area; and

- (b) these directions apply inside the affected area.
- 5. For the avoidance of doubt, nothing in these directions affects the operation of the current directions immediately before the date and time specified in paragraph 3.

### **Directions**

- 6. A person must not enter, or remain on, the premises of a **residential aged care facility** in the affected area unless:
  - (a) the person is an officer, employee or contractor of the residential aged care facility; or
  - (b) the person's presence at the premises is for the purposes of providing goods or services that are necessary for the effective operation of the residential aged care facility; or
  - (c) the person's presence at the premises is for the purposes of providing health, medical, or pharmaceutical services to a resident of the residential aged care facility, whether the goods or services are provided for consideration or on a voluntary basis; or
  - (d) the person's presence at the premises is for the purposes of **end of life support** for a resident of the residential aged care facility; or
  - (e) the person's presence at the premises is required for the purposes of emergency management, law enforcement or otherwise responding to an emergency; or  
*Example: a police officer, fire fighter or ambulance officer responding to an emergency would all be persons referred to in paragraph 6(f)*
  - (f) the person's presence at the premises is required for the purposes of performing a function (including exercising a power or performing a duty) under a written law by an officer, employee or contractor of a **public authority**; or
  - (g) the person's presence at the premises is in the person's capacity as a prospective resident of the residential aged care facility; or
  - (h) the person is a legal practitioner whose presence on the premises is for the purpose of providing legal services in relation to wills and estate planning to a resident of a residential aged care facility.
- 7. Despite paragraph 6, a person must not enter or remain on the premises of a residential aged care facility in the affected area if, in the preceding 14 days:
  - (a) the person has returned from overseas; or
  - (b) the person has been **informed** that the person is a **close contact**.

8. Despite paragraph 6, a person must not enter or remain on the premises of a residential aged care facility in the affected area if the person has any **symptoms**.
9. Despite paragraph 6, a person must not enter or remain on the premises of a residential aged care facility in the affected area if the person has not had an up to date vaccination against influenza unless:
  - (a) the person's presence at the premises is required for the purposes of emergency management, law enforcement or otherwise responding to an emergency;  
*Example: a police officer, fire fighter or ambulance officer responding to an emergency would all be persons referred to in paragraph 9(a)*
  - (b) a vaccination against influenza is not readily available to the person; or
  - (c) the person has a documented medical contraindication to the influenza vaccine.
10. A person must not enter, or remain on, the premises of a residential aged care facility in the affected area if the person is entering or remaining on the premises to provide a service to a resident of the facility (whether or not the service is to be provided for consideration) and it would be reasonably practicable for the service to be provided via telehealth or some other adaptive model of care or for the resident to attend an external facility to receive the service.  
*Note: for the avoidance of doubt, it is not reasonably practicable if it would not be in the best interests of the resident for the service to be provided via telehealth or some other adaptive model of care or for the resident to attend an external facility to receive the service.*
11. A person who enters or remains on the premises of a residential aged care facility in the affected area and is not a resident or staff member of the facility must comply with any instruction given to the person by the **supervisor** unless the person has a reasonable excuse for failing to comply with the instruction.
12. The **operator** of a residential aged care facility in the affected area must take all reasonable steps to ensure that a person does not enter or remain on the premises of the residential aged care facility if the person is prohibited from doing so by these directions.
13. Nothing in these directions is to be taken to prevent a resident of a residential aged care facility from entering or remaining upon the premises of the residential aged care facility.

## Definitions

14. **Affected area** means the following regions of Western Australia:
  - (a) the Metropolitan region described in Schedule 3 to the *Planning and Development Act 2005* (WA) (**Planning Act**);
  - (b) the Peel Region described in item 6 of Schedule 4 to the Planning Act;
  - (c) the South West Region described in item 8 of Schedule 4 to the Planning Act.
15. **Close contact** has the same meaning as in the Quarantine and Isolation (Undiagnosed) Directions made under the *Emergency Management Act 2005* (WA).
16. **End of life support** includes the provision of religious or spiritual counsel or other services related to the end of life.
17. **Flexible care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.
18. **Informed** has the same meaning as in the Quarantine and Isolation (Undiagnosed) Directions made under the *Emergency Management Act 2005* (WA).
19. **Operator** of a residential aged care facility means a person who owns, controls or operates the residential aged care facility.
20. **Premises** has the same meaning as it has in section 4(1) of the Act.
21. **Public authority** has the same meaning as it has in section 4(1) of the Act.
22. **Residential aged care facility** means a facility at which accommodation, and personal care or nursing care or both, are provided to a person in respect of whom a **residential care subsidy** or a **flexible care subsidy** is payable under the *Aged Care Act 1997* of the Commonwealth.
23. **Residential care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.
24. **Supervisor** means the staff member at the residential aged care facility responsible for supervising the facility at that time.
25. **Symptoms** mean any one or more of:
  - (a) a fever of 37.5 degrees or above; or
  - (b) a recent history of fever; or

- (c) symptoms of acute respiratory infection (including, but without limitation, shortness of breath, a cough or sore throat); or
- (d) loss of smell or taste.

## **PENALTIES**

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson  
Emergency Officer  
31 January 2021 17<sup>55</sup> hours