

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)

RESIDENTIAL AGED CARE FACILITY WORKER ACCESS DIRECTIONS

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 pm 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)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

PREAMBLE

1. The purpose of these directions is to prevent the importation of COVID-19 into the Western Australian community and to otherwise limit the spread of COVID-19 in Western Australia.

CITATION

2. These directions may be referred to as the **Residential Aged Care Facility Worker Access Directions**.

COMMENCEMENT

3. These directions come into effect at 12.01 am on 17 September 2021.

DIRECTIONS

4. Subject to paragraphs 5 and 6, a **residential aged care facility worker** must not enter, or remain at, a **residential aged care facility** if the residential aged care facility worker has not been **vaccinated** against COVID-19 unless the residential aged care facility worker is present at the residential aged care facility in some capacity other than as a residential aged care facility worker.

5. Where only part of **premises** are being used as a residential aged care facility, nothing in these directions prevents a residential aged care facility worker who is not vaccinated against COVID-19 from entering that part of the premises which is not being used as a residential aged care facility.
6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a residential aged care facility:
 - (a) for the purposes of performing a law enforcement function that cannot reasonably be performed other than by entering the residential aged care facility; or
 - (b) in pursuance of a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the residential aged care facility; or
 - (c) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth);
 - (d) responding to an emergency in a capacity other than as an **ambulance officer**, and to the extent that a residential aged care facility worker enters a residential aged care facility for any of the purposes in paragraph (a) to (d), then the residential aged care facility worker is deemed to be an **exempt person** at any time they enter or remain at a residential aged care facility for that purpose irrespective of whether that person appears in Column 2 of the table in Schedule 1.

Example: a fire fighter responding to an emergency would be a person referred to in paragraph 6(d).

7. A residential aged care facility worker must produce for inspection evidence in the form approved by the **Chief Health Officer** that they have been vaccinated against COVID-19, if:
 - (a) **directed** to do so by an **emergency officer**; or
 - (b) required to do so by their employer or by the owner, occupier or person apparently in charge of a residential aged care facility.
8. The owner, occupier or person apparently in charge of a residential aged care facility must:

- (a) take all reasonable and lawful steps to collect and maintain a record of the **vaccination status** of each residential aged care facility worker of the residential aged care facility; and
 - (b) on request, provide any record of the kind referred to in paragraph (a) that the owner, occupier or person apparently in charge of a residential aged care facility has collected and maintained to an **emergency officer** as soon as practicable after the request is made; and
 - (c) not use or disclose any record of the kind referred to in paragraph (a) except:
 - i. as provided for in this paragraph 8; or
 - ii. as permitted by law, including any law of the Commonwealth; or
 - iii. to the extent that the person expressly provided the person's vaccination status for a purpose other these directions,and
 - (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph (a) from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.
9. For the avoidance of doubt, nothing in paragraph 8 prevents the owner, occupier or person apparently in charge of a residential aged care facility from providing information to the Commonwealth in accordance with any obligation to do so arising under the *Aged Care Act 1997* (Cth).

DEFINITIONS

For the purposes of these directions:

- 10. **Ad hoc basis** means no more than once per week.
- 11. **Ad hoc volunteer** means a person who provides goods or services at a residential aged care facility in a voluntary or unpaid capacity and does so on an **ad hoc basis** only.
- 12. **Ambulance officer** means a person employed or otherwise engaged, including in a voluntary capacity, by:
 - (a) St John Ambulance Western Australia Limited; or
 - (b) The Royal Flying Doctor Service of Australia; or

- (c) Wilson Medic One; or
- (d) National Patient Transport; or
- (e) Serco Group Proprietary Limited; or
- (f) any other company or entity providing similar services to those organisations, including in a regional area, and who the Chief Health Officer specifies for the purposes of this paragraph,

but only at a time when that person is providing ambulance, patient transport and related services in that capacity at a residential aged care facility.

- 13. **Chief Health Officer** has the same meaning that it has in the Act.
- 14. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
- 15. **Emergency officer** has the same meaning that it has in the Act.
- 16. **Exempt person** means, to the extent that any such person is a residential aged care facility worker:
 - (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
 - ii. a **temporary exemption**;or
 - (b) a person who is deemed by paragraph 6 of these directions to be an exempt person; or
 - (c) a person of the kind set out in Column 2 of the table in Schedule 1; or
 - (d) any other person or class of persons who I, or a person authorised by me for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by me and subject to any terms and conditions specified.
- 17. **Flexible care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.
- 18. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
- 19. **Premises** has the same meaning that it has in the Act.

20. **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.
21. **Residential aged care facility worker** means a person of the kind set out in Column 1 of the table in Schedule 1 other than an exempt person (even if that exempt person falls within Column 1 of the table in Schedule 1).
22. **Residential care subsidy** has the same meaning as in the *Aged Care Act 1997* of the Commonwealth.
23. **Temporary exemption** means an exemption approved by me or a person authorised by me for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
24. **Vaccinated** means that the person has had at least one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
25. **Vaccination status** means whether a residential aged care facility worker has been vaccinated.

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.



Dr Andrew Robertson

Emergency Officer

09 August 2021 13:00 hours

Row	Column 1	Column 2
1	<p>A person who provides goods or services at a residential aged care facility and is employed or otherwise engaged, including in a voluntary or unpaid capacity, other than an ad hoc volunteer:</p> <ul style="list-style-type: none"> a. by the owner or operator of a residential aged care facility, or b. a third party who provides goods and services at the residential aged care facility for or on behalf of the owner or operator of a residential aged care facility, including a labour hire firm who provides staff to supplement the permanent workforce, <p>including, for the avoidance of doubt:</p> <ul style="list-style-type: none"> c. a direct care worker including a nurse, a personal care worker, an allied health professional and an allied health assistant; d. an administrative staff member including a person working in administration, management or reception services; e. an ancillary staff member including a cleaner, a laundry staff member, a gardener, a person performing food preparation services and a person providing maintenance services; 	<p>An ad hoc volunteer; or</p> <p>Any of the following in-reach service providers or contractors, unless they are a person covered by paragraph (a) of Row 1 of Column 1, irrespective of whether they provide services on an ad hoc basis or otherwise:</p> <ul style="list-style-type: none"> a. a delivery driver or person providing one-off trade deliveries; or b. a tradesperson; or c. a hairdresser; or d. a pastoral care worker or clergy including a resident's personal Minister / clergy / pastoral care worker; or e. a librarian; or f. a solicitor; or g. an AN-ACC / ACAT / RAS assessor; or h. an Aged Care Quality and Safety Commission Field staff member; or i. an Aged Care Advocate delivering the National Aged Care Advocacy Program (Older Persons Advocacy Network Members).

	<p>f. a person providing lifestyle and social care, including a person providing music or art therapy or a transport driver who transports residents of the residential aged care facility for the purposes of outings.</p>	
2	<p>A person who provides services in connection with:</p> <ul style="list-style-type: none"> a. the Transition Care Programme; b. the Short Term Restorative Care Programme; c. the Multi-Purpose Services Programme; d. the National Aboriginal and Torres Strait Islander Flexible Aged Care Programme e. Respite care <p>but only to the extent that those services are being provided at the residential aged care facility.</p>	<p>A person participating in the Community Visitors Scheme or Partners in Care Programme;</p> <p>A person who is a family member or friend of a resident.</p>
3	<p>A person who provides health, medical, pharmaceutical or allied health services to a resident of the residential aged care facility (irrespective of whether those services are provided for consideration or on a voluntary basis and irrespective of whether that person is employed or engaged, including in an unpaid or voluntary basis, by the owner or operator of the residential aged care facility or a third party who provides goods and</p>	

	services at the residential aged care facility for or on behalf of the owner or operator of a residential aged care facility or some other person, including the resident).	
4	A person who is a student and is on a placement at a residential aged care facility as a formal part of their education.	
5	An ambulance officer.	