READY TO LISTEN

The #ReadyToListen Policy Kit

For Preventing Sexual Assault in Residential Aged Care

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OPAN Older Persons Advocacy Network

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Contents

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For more information contact
More free resources on #ReadyToListen website: https://opan.org.au/support/support-for-professionals/ready-to-listen/

Important definitions

Policy Kit
This policy kit has been developed from guidelines to support residential aged care service providers improve responses to and prevent sexual assault in residential aged care. The policy outlines how service providers might approach their obligations under the Quality of Care Principles. The policy is not legal advice or a compliance guide.

Quality of Care Principles
Reference to the Quality of Care Principles refers to the *Quality of Care Principles 2014* (Cth)[1] made under section 96-1 of the Aged Care Act 1997.

Sexual assault
The definition of sexual assault varies across each state/territory.[2] The #ReadyToListen resources use the term to encompass 'unlawful sexual contact, and inappropriate sexual conduct' as outlined in the *Quality of Care Principles 2014 (Cth)*[3] as follows:

Unlawful sexual contact, or inappropriate sexual conduct

(4) In paragraph 54-3(2)(b) of the Act, the expression "unlawful sexual contact, or inappropriate sexual conduct, inflicted on the residential care recipient" includes the following:
  (a) if the contact or conduct is inflicted by a person who is a staff member of the approved provider or a person while the person is providing care or services for the provider (such as while volunteering)—the following:
    (i) any conduct or contact of a sexual nature inflicted on the residential care recipient, including (without limitation) sexual assault, an act of indecency and the sharing of an intimate image of the residential care recipient;
    (ii) any touching of the residential care recipient's genital area, anal area or breast in circumstances where this is not necessary to provide care or services to the residential care recipient;

(b) any non-consensual contact or conduct of a sexual nature, including (without limitation) sexual assault, an act of indecency and the sharing of an intimate image of the residential care recipient;

(c) engaging in conduct relating to the residential care recipient with the intention of making it easier to procure the residential care recipient to engage in sexual contact or conduct.

(5) However, that expression does not include consensual contact or conduct of a sexual nature between the residential care recipient and a person who is not a staff member of the approved provider, including the following:
  (a) another person who is a residential care recipient of the provider;

[1] https://www.legislation.gov.au/Details/F2021C00887
[2] Ibid.
[3] https://www.legislation.gov.au/Details/F2021C00887

(b) a person who provides care or services for the provider (such as while volunteering) other than while that person is providing that care or services.

Ready To Listen
The term #ReadyToListen refers to aged care service providers knowing the risk of sexual assault, understanding indicators, believing those who disclose, acknowledging impacts, providing support and taking proactive steps to protect residents. Being #ReadyToListen is achieved through organisational policy and education for staff and information for residents and their families on sexual assault.

Perpetrator
The term perpetrator refers to the person directly engaged in sexual assault[4], as well as people who may induce or assist others to engage in the sexual assault[5]. The term perpetrator is used to reinforce the serious nature of sexual assault.[6]

Disclosure
The word disclosure is used by a number of key services[7,8] in relation to sexual assault, and broadly reflects a process for making something known.

Victim/survivor
The term victim may be used to refer to the person who has been sexually assaulted[9], particularly to illustrate that a sexual assault has been committed.[10] The term 'survivor' often refers to a person who is going through or has gone through a recovery process.[11] Some resources refer to victims/survivors in recognition that those impacted have the right to choose how they are referred to.

Affirmative consent
Affirmative consent makes it clear that a person does not consent to sexual activity unless they said or did something to communicate consent[12]. The objectives of affirmative consent in residential aged care are to recognise that every resident has a right to choose whether to participate in sexual activity and that consent to a sexual activity must not be presumed. Communication of consent requires more than noting a resident was not obviously distressed or didn't say no to sexual activity. Consent is given through words or actions before and continuously throughout sexual activity.

Substitute decision-maker

A substitute decision-maker is a person who makes a health care or medical treatment decision for a person who has lost decision-making capacity. They are required to act in accordance with the person's rights, will and preferences. Generally, the substitute decision-maker's decision has the same legal effect as if the person had capacity and had made the decision themselves.

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[4] https://www.police.vic.gov.au/sites/default/files/2019-02/Victoria-Police-Reporting-Guidelines--v12-2_7Mar16_gvr.pdf
[5] Ibid.
[6] https://plan4womenssafety.dss.gov.au/wp-content/uploads/2015/04/glossary-web_national_outcome_standards_for_perpetrator_interventions.pdf
[7] https://www.racgp.org.au/afp/2015/march/disclosures-of-sexual-abuse-what-do-you-do-next
[8] https://aifs.gov.au/publications/responding-young-people-disclosing-sexual-assault
[9] https://www.police.vic.gov.au/sites/default/files/2019-02/Victoria-Police-Reporting-Guidelines--v12-2_7Mar16_gvr.pdf
[10] https://sakitta.org/toolkit/docs/Victim-or-Survivor-Terminology-from-Investigation-Through-Prosecution.pdf
[11] Ibid.
[12] https://www.mondaq.com/australia/crime/1136522/affirmative-sexual-consent-laws-passed-in-new-south-wales

Being #ReadyToListen is about understanding the risk of sexual assault, knowing the indicators, believing those who disclose, acknowledging impacts, providing support and taking proactive steps to protect residents. Sexual assault in residential aged care is never okay, being #ReadyToListen is an important step in prevention.

Mr Craig Gear, CEO Older Persons Advocacy Network (OPAN)

Introduction

Since the Royal Commission into Quality and Safety in Residential Aged Care, there have been significant policy reforms related to sexual assault in residential aged care, which have led to the development of this resource.

In Australia, processes for reporting sexual assault in residential aged care were introduced in 2004, when the Department of Health launched a scheme for the compulsory reporting of incidents, including sexual assault.[13] There were 'limited circumstances' for reporting, which meant that sexual assault was not reported if the perpetrator was cognitively impaired.

Data gathered for this compulsory reporting scheme was outlined in an annual Report on the Operation of the Aged Care Act annually from 2004 to 2020. The final (2019-2020) report identified there were 851 reports of alleged or suspected unlawful sexual contact.[14]

A critique of the compulsory reporting approach was that data was collected but was not clearly being utilised to inform strategies for prevention. This gap and the limited circumstances approach have arguably contributed to conceptualising sexual assault of older people as a lesser crime – or no crime at all. For example, research identified that in 58% of sexual assaults, staff in residential aged care reported there were no negative impacts on the resident.[15]

In contrast to the myth of 'no harm', global research shows the following adverse impacts of sexual assault in residential aged care:

- high rates of mortality, physical injury and delirium, as well as protracted PTSD[16]
- physical injuries, including long term health conditions, exacerbation of existing injuries or conditions[17]

[13] https://www.gen-agedcaredata.gov.au/Resources/Reports-and-publications/2020/September/Report-on-the-operation-of-the-Aged-Care-Act
[14] https://www.health.gov.au/news/announcements/2019-20-report-on-the-operation-of-the-aged-care-act-1997
[15] https://www.health.gov.au/resources/publications/prevalence-study-for-a-serious-incident-response-scheme-sirs
[16] https://www.ojp.gov/pdffiles1/nij/grants/216550.pdf
[17] Bows, Hannah (2019). Violence against older women. Nature and extent. Springer Link

- higher rates of genital trauma, aches and pains, cuts and bruises, and sexually transmitted diseases, compared to younger women[18]
- fear of perpetrator reoffending resulting in distress, insomnia and general failure to thrive[19]
- delays in processing and impaired communication which potentially compounds the trauma of sexual assault[20]

The ageist, sexist, ableist myth that sexual assault in residential aged care causes no harm is a significant barrier to preventing sexual assault and supporting victims/survivors. It is difficult to imagine a service provider supporting victims/survivors or prioritising safety plans for prevention – when they think sexual assault is harmless.

Over decades of advocacy, the authors have had to explain the harmful impacts of sexual assault - for it to become a priority. This reflects the devaluing and dehumanising of older people. It also reflects the need for leadership.

Leadership on reforms became tangible following release of The Aged Care Royal Commission's final report,[21] which estimated there are 50 sexual assaults in residential aged care each week. A Serious Incident Response Scheme (SIRS)[22] was launched in residential aged care in 2021, which now requires that all reportable sexual assaults are reported.

To accompany the introduction of SIRS, the Aged Care Quality and Safety Commission (ACQSC) released a fact sheet on sexual assault,[23] which was updated in 2022. The fact sheet (and SIRS guidelines) note that most sexual assaults need to be reported to police where there are 'reasonable grounds' to do so and 'an incident is likely to be of a criminal nature'. While these changes have been welcomed by many, there is a lack of clarity about what constitutes reasonable grounds – and when sexual assault is not of a criminal nature.

Additionally, in 2022 the Code of Conduct for Aged Care[24] notes that providing care, support and services free from sexual misconduct is consistent with the code and that services must take reasonable steps to prevent and respond to sexual misconduct. This includes predatory sexual behaviours that influence or seek to take advantage of residents and any sexual act between a resident and an aged care worker. It also requires that workers are trained and cognisant of when and how to raise concerns about sexual misconduct and that there are systems and processes in place to encourage residents to report sexual misconduct.

A further significant reform occurred in 2021 with the funding of the #ReadyToListen project for residential aged care.

[18] Ibid.
[19] opalinstitute.org/margarita
[20] https://www.nsvrc.org/sites/default/files/Elder_Sexual_Assault_Technical-Assistance-Manual.pdf
[21] https://agedcare.royalcommission.gov.au/publications/final-report
[22] https://www.agedcarequality.gov.au/consumers/serious-incident-response-scheme#compulsory%20reporting
[23] https://www.agedcarequality.gov.au/sites/default/files/media/sirs-unlawful-sexual-contact-or-inappropriate-sexual-conduct-fact-sheet-june-2021.pdf
[24] https://www.agedcarequality.gov.au/providers/code-conduct-aged-care-information-providers

The #ReadyToListen project

In 2021, the Older Persons Advocacy Network (OPAN) presented a proposal to the Department of Health for a national project to deliver education and resources to residential care service providers on preventing sexual assault and supporting victims/survivors. The #ReadyToListen project was led by OPAN, in partnership with Celebrate Ageing Ltd and the Older Women's Network, New South Wales.

The leadership of OPAN on the #ReadyToListen project is significant. The project is the first national approach to prevention and demonstrates leadership by an aged care peak body on this issue. It also likely begins a period of great reflection by other key stakeholders about their role in reforms.

The #ReadyToListen approach is about understanding the risk of sexual assault, knowing the indicators, believing those who disclose, acknowledging impacts, providing support and taking proactive steps to protect residents. At the heart of the project is a #ReadyToListen MAP.

The #ReadyToListen MAP

The #ReadyToListen MAP provides education and outlines practical strategies to improve responses to sexual assault disclosure and to prevent sexual assault in residential aged care. The MAP offers a suite of resources that can be localised to the context of each state/territory and the internal processes of each residential aged care service.

The MAP approach recognises that ‘one off education’ is not sufficient to create culture change. There is also a need for guidelines for resident care, information for residents and families, education for staff, frameworks for change, audit and quality tools, and this organisational policy.

The MAP outlines the **M**yths, facts **A**nd **P**ractical strategies to be #ReadyToListen when sexual assault is disclosed. It has the following 10 elements or ways of knowing and doing required by residential aged care service providers:

1. Understanding sexual assault definitions and prevalence
2. Clarifying sexual rights and consent
3. Assessing the indicators of sexual assault
4. Identifying the impacts of sexual assault
5. Complying with reporting requirements
6. Providing immediate safety and support
7. Practicing open disclosure
8. Providing trauma informed aged care services
9. Recognising and reducing resident vulnerability
10. **Promoting protection, prevention and service improvement.**

This Policy Kit relates to Element 10: promoting protection, prevention and service improvement to prevent sexual assault. These elements are outlined in MAP Guidelines, which need to be read before using the Policy Kit.

The #ReadyToListen webpage on the OPAN website has all the resources required to achieve the steps listed above. Go to: More free resources on #ReadyToListen website: https://opan.org.au/support/support-for-professionals/ready-to-listen/

How to use the Policy Kit

This Policy Kit outlines key actions related to the 10 #ReadyToListen MAP elements. The policy statements are intended to be localised by service providers developing a sexual assault prevention policy or incorporating sexual assault prevention into an existing incident management system.

A word version of the policy is available, for services to add in local contacts, internal reporting mechanisms etc.

It may be useful to form a policy development group with representation from residents, families, care coordinators, quality managers, team leaders etc to draw on a range of perspectives on the policy content. It may also be useful to invite the local sexual assault service, medical service, or police to provide input. Suggested steps for developing a sexual assault prevention policy include:

- Form a group to oversee development and review policy
- Review the #ReadyToListen MAP Guidelines
- Review all #ReadyToListen resources
- Audit of your service using the #ReadyToListen audit tool
- Review audit results and undertake improvements
- Take the draft policy – localise it including localising any [bracketed] content such as:
    - Internal contact people and numbers
    - Contact details for local police
    - Contact details for local sexual assault service
- Delivering education for staff on the policy.

Sexual assault prevention policy statements

The policy statements include [bracketed] content, which is designed to be localised with details relevant to your service.

1. Sexual assault definition

The term sexual assault is used our education, policy and procedures to encompass 'unlawful sexual contact, and inappropriate sexual conduct' as outlined in the *Quality of Care Principles 2014 (Cth).*[25] The Principles outline the responsibilities of aged care service providers and should not be altered. The definition includes the following:

(a) if the contact or conduct is inflicted by a person who is a staff member of the approved provider or a person while the person is providing care or services for the provider (such as while volunteering)—the following:
  (i) any conduct or contact of a sexual nature inflicted on the residential care recipient, including (without limitation) sexual assault, an act of indecency and the sharing of an intimate image of the residential care recipient;
  (ii) any touching of the residential care recipient's genital area, anal area or breast in circumstances where this is not necessary to provide care or services to the residential care recipient;

(b) any non-consensual contact or conduct of a sexual nature, including (without limitation) sexual assault, an act of indecency and the sharing of an intimate image of the residential care recipient;

(c) engaging in conduct relating to the residential care recipient with the intention of making it easier to procure the residential care recipient to engage in sexual contact or conduct.

Staff education will include the above definition and ensure that all staff are clear about the activities that constitute sexual assault.

2. Sexual Rights and Responsibilities

a) The Charter of Sexual Rights and Responsibilities is made available in hard copy for residents and families in [their orientation pack]
b) The Charter is also made available to all staff through [the intranet]
c) Staff will assist in ensuring sexual consent is required for every sexual activity – every time
d) Where concerns are raised about resident capacity to provide sexual consent, the [team leader] will be notified immediately, and residents asked to stop sexual activity until consent has been clarified
e) The processes for determining sexual consent is to [insert process here e.g. referral to DBMAS, GP or Geriatrician]
f) Staff education will cover the Charter, the role of staff values and beliefs on sexual rights, and place particular emphasis on the rights and responsibilities of staff in this context.

[25] https://www.legislation.gov.au/Details/F2021C00887

3. Indicators of sexual assault

a) Residents who disclose sexual assault will be believed and staff will report the disclosure to [team leader] immediately
b) If a resident shows physical signs of sexual assault, such as genital trauma, bleeding or bruising etc this must be reported to [team leader] immediately
c) If a resident demonstrates psychological/behaviour changes, these will be reviewed as potential indicators of sexual assault and reported to [team leader] immediately
d) Where indicators of sexual assault are present, these must be reported to [team leader] immediately
e) When indicators of sexual assault are reported to [team leader], this staff member will implement the sexual assault reporting processes immediately (see policy statement 5)
f) Staff education will explore how indicators of sexual assault may differ for victims/survivors with dementia and those who are unable to communicate verbally.

4. Impacts of sexual assault

a) Assessment of impacts will be undertaken for the purposes of understanding the support needs of the victim/survivor
b) The process of assessment will take into account that victims/survivors with dementia, memory loss or inability to speak may have difficulty communicating impacts – and may require assessment of non-verbal indicators, such as behaviour/psychological changes
c) Identification of the impacts of sexual assault will include any changes to the ways the victim/survivor engages with their care, other residents, staff and their environment more broadly
d) Identification of the impacts of sexual assault will consider perceived threat – including potential perceived threat experienced by victims/survivors who are unable to speak
e) Assessment of impacts will be understood in the context of the global evidence base showing the harmful impacts of sexual assault
f) Staff education will outline the harmful nature of sexual assault in residential aged care, explore origins of the ageist myth that sexual assault is not harmful to residents and clarify the importance of understanding impacts i.e. to meet the victim/survivor's care needs, rather than rate/rank the 'seriousness' of the sexual assault.

5. Reporting requirements

a. When sexual assault is witnessed, disclosed or suspected, it must be reported immediately to [team leader]
b. The [team leader] will notify the Serious Incident Response Scheme as a Priority 1 incident within 24 hours

c. The [team leader] will also notify [the CEO/Board] immediately
d. Determining whether the disclosure of sexual assault will be reported to the police will include consideration of the following:
    - where the alleged perpetrator is or was a staff member or volunteer, police will be notified
    - where the victim/survivor or other residents are still at risk, police will be notified
    - a victim/survivor who has capacity to make the decision may decide not to report their sexual assault to the police
    - a victim/survivor who has capacity to make the decision may decide not to be interviewed by police or participate in the investigation – but to have their sexual assault reported to the police
    - where a victim/survivor does not have capacity, the decision to report to police can be made by a non-offending substitute decision-maker
    - read the #ReadyToListen Guidelines for Reporting to the Police to clarify requirements for preserving evidence, physical examination of the resident and any restrictions on an internal investigation before police attendance
e. Check with the victim/survivor whether they would like their family notified. If the victim/survivor has substitute decision-maker, they must be notified immediately
f. Staff education will clarify protection and support for staff who report sexual assault, the internal reporting mechanisms and SIRS requirements.

6. Safety and support

a. Following disclosure of sexual assault, ensure the victim/survivor receives immediate medical attention - if emergency call 000 (triple zero) to arrange an ambulance. If not an emergency, call the resident's GP. Check with GP and Police whether forensic medical examination is required.
b. Staff will take immediate action to protect the victim/survivor from further sexual assault – and a safety plan will be documented in the [resident's notes]. Staff will ask the resident if they feel safe, and if not - what they need to feel safe. Consult with the victim/survivor's family/substitute decision-maker if appropriate. Ensure the safety plan is enacted and reviewed – and that the victim/survivor is safe and feels safe
c. Provide victim/survivor with information on sexual assault services for counselling and support. Our local sexual assault service is [insert name and contact details]. If there is no response, contact 1800 RESPECT (1800 737 732) and ask for the details of other local services
d. Offer to check if [the local sexual assault services] can provide phone support or visit the victim/survivor. Sexual assault services should be offered, and access supported, even if the resident is unable to communicate

e. Offer the victim/survivor access to an aged care advocate to advocate on their behalf. Contact the Older Persons Advocacy Network (OPAN) information and advice line on 1800 700 600
f. Please note in resident files that they have been offered access to sexual assault and OPAN advocacy services
g. A template for safety planning is available and should be used to check victim/survivor needs and safety. Others to consult in relation to the plan include (where appropriate) family members or substitute decision-maker, sexual assault services, aged care advocates, medical staff etc
h. Staff education will include strategies for promoting resident support and safety following sexual assault disclosure – and strategies for working with family or substitute decision-makers.

7. Open disclosure

a. When sexual assault is disclosed, an unreserved apology to the victim/survivor and their family or substitute decision-maker (where appropriate) will be provided by the [team leader] within 24 hours and will acknowledge what the victim/survivor has experienced and express commitment to preventing further sexual assault. The provision of an apology should be recorded in the resident's care notes
b. An internal investigation will begin, after the sexual assault has been reported to the [team leader]. If police are notified, the [team leader] will check with police before commencing an internal investigation
c. The aim of the internal investigation is to find out what happened and identify how further sexual assault can be prevented for the victim/survivor and other residents. The investigation will include the following:
    - Interview with the victim/survivor and their family/SDM (where appropriate)
    - Meeting with staff, particularly those on duty at the time of the assault
    - Meeting with other residents – if the sexual assault is widely known. This meeting can involve discussion about strategies to promote the safety of all residents, without compromising the privacy of the victim/survivor
d. The findings of the investigation and the action taken need to be documented by the [team leader] in the [incident management system]
e. The [team leader] will thank the staff who reported the sexual assault and reaffirm the importance of speaking out – to create a culture of open disclosure and prevention
f. In meetings and conversations with staff, they will be reminded that Whistle Blower protection applies to reporting sexual assault
g. Staff education will provide staff with strategies for investigating the assault (following any investigation by police) to clarify what happened and how it can prevented. Staff education will also explore the importance of an apology to

the victim/survivor and their family/substitute decision-maker and practical strategies for apologising.

8. Trauma informed services

a. We understand that many residents have experienced historical trauma, and may be retraumatised by sexual assault in residential aged care
b. We also understand that sexual assault is a traumatic event for the victim/survivor and secondary trauma may also be experienced by families, other residents and staff
c. Care for the victim/survivor includes their safety needs (see statement 6, safety and support) and also sensitive care, or checking what they need to feel safe on an ongoing basis
d. The victim/survivor and their family will be given the contact details for [local sexual assault service]
e. A team debriefing meeting will be facilitated by [team leader] within 24 hours of disclosure to check staff support needs and prevention strategies
f. Information about publicly available support services e.g. 1800RESPECT will be provided in [the staff room and staff intranet]
g. Information about counselling through our [Employee Assistance Program] will be provided in the staff room and intranet – and will include information on the privacy of staff who access this service
h. At all levels of [management], we will promote listening to and respect for staff, to demonstrate the listening and respect we are asking our staff to provide to all residents
i. Staff education will outline a trauma informed approach, including the importance of recognising retraumatisation and vicarious trauma for residents, families and staff. Education will also assist staff in understanding the role that their experiences, values and beliefs (or culture) plays in responding the sexual assault disclosures. Education will also remind staff of their role in building a culture of Trauma Informed Services – where residents, families and staff are respected and heard every day.

9. Recognising and reducing resident vulnerability

a. All relevant policies and protocols (including risk management, quality improvement, rostering, staff mix etc) will take into account resident vulnerability to sexual assault
b. Staff education will promote staff understanding that
    - It is our attitudes that makes residents vulnerable to sexual assault; in particular the myth that sexual assault doesn't happen, isn't harmful or won't be remembered
    - Most victims/survivors of sexual assault in residential aged care are frail women with dementia, who may be targeted because they can't speak or won't be believed if they disclose sexual assault

- Most perpetrators of sexual assault are men. This includes male residents, staff, volunteers, family members and visitors.

10. Protection, prevention and quality improvements

a. We have formed a [working group] to oversee development, implementation and evaluation of this policy, and includes the following actions:
    - Review the #ReadyToListen MAP Guidelines
    - Review all #ReadyToListen resources
    - Audit our service using the #ReadyToListen audit tool
    - Review audit results and undertake improvements
    - Localise the draft policy
    - Implement staff education on the policy.

b. Staff education will cover all the elements in the #ReadyToListen MAP and will
    - Be mandatory – for staff and volunteers at all levels of the organisation, including Board Members
    - Be updated annually
    - Be refreshed after sexual assault disclosures.

Useful contacts

1800RESPECT

The National Sexual Assault, Domestic Family Violence Counselling Service provides a 24 hour hotline. Contact them **on** 1800 RESPECT (1800 737 732) and ask for the details of your closest sexual assault service.

1800FULLSTOP

Fullstop Australia aims to put a full stop to sexual, domestic or family violence. They offer confidential counselling for people who have experienced sexual assault and for family members. Call 1800 385 578 any time or check the website: https://fullstop.org.au/

The Older Persons Advocacy Network (OPAN)

The Older Persons Advocacy Network, or OPAN provides independent, confidential, and free advocacy support for people living in residential aged care. OPAN have provided training and support to all their services to better understand how to support people who have been sexually assaulted in residential aged care.

The OPAN information and advice line can connect victims/survivors with an advocate from their state/territory based OPAN service who can advocate on their behalf. Call 1800 700 600 (7 days week) or check the website at: https://opan.org.au/

The Aged Care Quality and Safety Commission

The Aged Care Quality and Safety Commission (ACQSC) assesses the quality of care and services in residential aged care and manage the Serious Incident Response Scheme or SIRS (all sexual assault must be reported to SIRS within 24 hours). Contact the Commission to make a complaint about sexual assault or the way it was managed. Call: 1800 951 822 (9am-5pm, Monday to Friday) or check their website here: https://www.agedcarequality.gov.au/

Ready To Listen resources

The #ReadyToListen project has developed a suite of resources for older people, people living with dementia, family members and service providers. Go to the MAP webpage for an overview of the and links to further resources: https://opan.org.au/support/support-for-professionals/ready-to-listen/