

June 2019

## POLICY CLARIFICATION

# Residential and in-home care

### Purpose

This policy clarification outlines how WorkSafe will manage and respond to health and safety-related concerns or notifications in the residential and in-home care sector.

This policy clarification may be of interest to:

- businesses or organisations that provide residential and in-home care
- workers, including volunteers, caring for people in residential care facilities or private homes
- workers, including volunteers, who perform non-care related work in residential care facilities
- people who receive care in a residential care facility or private home
- visitors to residential care facilities (eg to visit friends or family).

### Key points

- 'Residential care' includes those being cared for in a residential facility, while 'in-home care' refers to those being cared for in a private home.
- Persons conducting a business or undertaking (PCBUs) within the residential and in-home care sector must ensure the health and safety of their workers and others.
- As the regulator for health and safety at work, we receive notifications and concerns about residential and in-home care.
- We may respond to notifications or concerns where work within the residential and in-home care sector has resulted in the injury, ill-health, or death of a worker, visitor, or someone receiving care.
- We may redirect notifications or concerns where the standard of care has resulted in the injury, ill-health, or death of someone receiving care.

### Definitions

- **Residential care:** defined by Section 2 and Section 6 of the *Health and Disability Services (Safety) Act 2001*, refers to care for disabled, elderly, and physically or mentally unwell people in a residential facility, such as a retirement village, serviced apartment, rest home or long-stay hospital, dementia unit, or psycho-geriatric unit. These may be private or publicly funded facilities.
- **In-home care:** refers to care provided in a private home for disabled, elderly, and physically or mentally unwell people by registered health professionals or non-registered personnel, such as community support workers. In-home care does not include individuals receiving a Supported Living Payment from Work and Income to care for someone in a private home.

The care provided may be medical, rehabilitative, respite, or palliative, including short or long-term assistance of a non-medical nature. This care may not necessarily be provided on a daily basis.

### What the law says

Under the *Health and Safety at Work Act 2015*, PCBUs must ensure the health and safety of their workers and others. In the residential and in-home care sector, 'others' refers to those who could be put at risk by the work of the business, such as people receiving care or visitors.

Residential and in-home care providers are subject to a range of regulatory oversight, and may be subject to contractual oversight as well.

## Notifications and concerns we receive

As the regulator for health and safety at work, we receive notifications and concerns about residential and in-home care. These notifications and concerns may include:

- Concerns about the standard of care, which might relate to a provider's procedures, processes, physical environment, equipment, or personnel.
- Injuries, ill-health, or death of:
  - a **person receiving care**, which may be linked to a standard of care issue
  - a **worker**, for example if they are injured or they become unwell due to the work, or following violence from a person receiving care, visitor, or another staff member, or
  - **others** at a workplace, such as a visitor.

## Notifications and concerns we may respond to

We may respond to notifications or concerns where work within the residential and in-home care sector has resulted in the injury, ill-health, or death of a **worker, visitor, or someone receiving care**. This does not include notifications or concerns regarding the standard of care.

## Notifications and concerns we may redirect

Where the standard of care has resulted in injury, ill-health, or death of **someone receiving care**, we will redirect you to the agency best equipped to respond. In most cases, this will be the Health and Disability Commissioner, the Ministry of Health, or the local District Health Board.

Where violence has resulted in injury, ill-health, or death, of a **worker, visitor, or someone receiving care** the New Zealand Police is the appropriate agency to respond.

## We will work with other agencies

There may be situations where a cross-agency approach is appropriate. We will work with other agencies as needed and where it aligns with our priorities.

## Further information

For further information, see the following:

### Policy clarification

[Notification requirements for events arising from medical treatment](#)

### WorkSafe position

[When will WorkSafe intervene?](#)

### Bullying toolbox

[Advice for workers, small businesses, and reporting and assessment forms](#)

### Good practice guidelines

[Managing the risk of workplace violence to health care and community service providers](#)

[Guidance for the provision of facilities and general safety in the health care industry](#)

[Moving and handling people in the health care industry](#)

## Making a complaint

If you're unhappy with a health and disability service and would like to make a complaint, see the Ministry of Health's page on their website: [Complaints about Health and Disability Services](#)