



COVID-19 Case study

#02 Visitors



An aged care service tells a resident's daughter its COVID-19 rules mean she can't visit more than three times a week

Carol moved into a large residential aged care service 18 months ago. She is relatively healthy for her age and fully capable of making her own decisions. Until COVID-19, her daughter, Sarah visited her most days. When the government eased COVID-19 restrictions, Sarah wanted to go back to visiting her mother as often as before. However, the service was still strictly limiting visitor numbers.

Sarah complained to the Aged Care Quality and Safety Commission (the Commission) that she wasn't allowed to visit her mother more than three times a week and that before each visit she had to book online through the service's website. She felt that these restrictions were unreasonable as the service is in an area of low risk for transmission of COVID-19.

The complaints officer asked about Carol's **1. general health and care**. Sarah said her mother's health hadn't deteriorated in the past year and she was happy with the standard of care at the service.

After confirming that Carol is her own decision-maker, the complaints officer called her to ask about her concerns. Carol said she wanted to be able to see her daughter more often and agreed with her that **2. the limit on visits is unreasonable**. She authorised Sarah to speak on her behalf for this complaint.

The current public health directions applying in the jurisdiction allow one household (people who live in the same house) to visit residents in aged care for up to two hours a day. If the resident has specific care needs that only a particular visitor can provide, that person can visit without the two-hour restriction as long as the resident doesn't have another visitor at the same time.

3. Importantly, the public health directive also includes a 'density quotient' for the number of people who can be at a service at any one time. As with other shared spaces, like schools and cafés, this number is based on the size of the building. **The public health authorities also require residential aged care services to take specific cleaning and personal protective equipment measures as part of their visitor management.**

The complaints officer from the Commission talked to the manager at Carol's aged care service, who confirmed that there are no issues with her health or care. She needs some physical help with personal care (such as showering) and is at high risk of falls, but does not require special assistance, for example, at meal times.

4. There had been a COVID-19 outbreak at the service several months before, but it was contained to four residents and five staff, and all recovered. **During the outbreak the service locked down and didn't allow visitors, at the request of the public health authorities.** Since then they had been able to lift the lockdown and progressively open up to visitors, in line with public health directions.

5. **The complaints officer asked how the service was complying with the Industry Code for Visiting Residential Aged Care Homes and the Charter of Aged Care Rights,** which gives residents like Carol the right to have control over and make choices about their personal and social life, including choices that involve personal risk. The manager said the service understands residents' rights and incorporates those rights and its industry code obligations into its visiting policy.

The manager explained that the visitor restrictions are there so that as many residents as possible can have visitors each week. The service introduced the online booking system to make sure this is happening and to control how many people will be in the building at any one time. This system also makes it possible to plan rosters so **there are always enough staff on duty to**

4. There is no explanation here that the "request" of local authorities could well be unlawful, if it is not a statutory direction.

5. Compliance with an industry code is irrelevant. Clearly the facility is not complying - the Commission should assess.

6. make sure visitors are social distancing and wearing masks.

The booking system was working well and most of the feedback from families and residents was positive, although some were still worried about allowing visitors since the earlier outbreak. With warmer weather arriving, the service was about to increase access by setting up designated outdoor visiting areas. It expected to let people know about the extra visitor spots within the next week. The manager also mentioned that Sarah was welcome to take her mother to a local park or café, **as long as she agreed to stick to the public health rules on social distancing and wearing masks.** 7.

After this conversation, the Commission asked the service for a written response explaining how it was meeting its responsibilities and specifically how it determined the number of visitors it could safely have each day. In its response, the service provided information backing up its decisions about safe visitor numbers and confirmed that it had let families know about the extra visitor spots outside.

The complaints officer followed up with Sarah and explained that the service is meeting its responsibilities and taking a balanced risk-based approach to visitor access. Sarah mentioned that the service had been in touch about the new timeslots for outdoor visits and that she was planning to book one of these each week. She said she would consider the idea of taking Carol out to a café or park but was worried about the risk of falls. 8.

Now that Sarah understands the reasons for the visiting restrictions, she's willing to accept the current situation. She looks forward to having more time with her mother as soon as possible **and is reassured that the service is acting as far as possible in all the residents' best interests.** 9.

1. This point is not relevant to false imprisonment.

2. The perception of unreasonableness is only part of the (legal) story.

3. Cleaning is used as an excuse to ban visitors. It can't be. Providers were given more funding for cleaning but if they spent it on other things that doesn't justify taking away freedoms from residents. It is not relevant and shouldn't be accepted as an excuse.

6. Similarly to 3. this is not an excuse to detain people and ban visitors.

7. You - a provider - can only remind people of legal obligations.

8. What a tragedy. Balancing risk is not available to you when you are illegally detaining people.

9. The Commission has persuaded Sarah to accept unlawful behaviour.