

Draft Position Statement: Cameras in Aged Care (September 2016)

Aged Rights Advocacy Service Inc.

The Aged Rights Advocacy Service Inc (ARAS) is a not for profit community based organisation providing older South Australians with advocacy support to exercise their rights and access their entitlements who are:

- Living in residential aged care;
- Receiving community aged care services;
- Living in a retirement village; and
- At risk of or who are experiencing elder abuse by family and friends.

ARAS also currently hosts the South Australian Elder Abuse Prevention Phone line which is a central access point to assist with information and referrals to appropriate support services. ARAS is funded by the Department of Health (Cth) and the Office of the Ageing, SA Health.

In recent times there has been media attention and discussion about the use of cameras being used in aged care. More recently discussion has been triggered by the abuse of an elderly resident of an Adelaide aged care facility which resulted in a criminal conviction. The abuse was captured on a hidden surveillance camera placed in the resident's room.

Principles for using Cameras in Aged Care

ARAS has considered the issues of cameras in older person's room and supports the following ethical principles¹ to guide camera being used in aged care:

Seven Principles for the Use of surveillance technologies:²

- 'Any reasonable level of surveillance including cameras is appropriate for common and public areas;
- Aged Care Homes should be able to provide or should be willing to permit or facilitate the use of surveillance technologies including cameras within a resident's room or other private area;
- The location of surveillance technologies should be carefully considered. They should be visible or otherwise clearly known to be present;
- Staff should be fully aware of their responsibilities in relation to surveillance technologies;
- Access to data, images, audio or video footage should be restricted only to authorised persons or agencies in particular defined circumstances;
- Ownership of data, images, audio or video footage;
- Minimising intrusion'.

Context & Application of Principles to Aged Care Homes

It is important to consider the context of an aged care home which is considered the older person's home. Older people have purchased³ the quiet use and enjoyment of their room with many older people having paid a not insignificant amount of money.

¹ Fisk M, Florez-Revuelta F (2016) The Ethics of Using Cameras in Care Homes *Nursing Times*; 112:10 12-13; Fisk MJ (2015a) Surveillance Technologies in Care Homes : Seven principles for their use *Working with Older People*; 19:2:51-59. Australian Ageing Agenda *New Principles to Guide Ethical Surveillance in Care Facilities* 8 April 2015: <http://www.australianageingagenda.com.au/2015/04/08/new-principles-to-guide-ethical-surveillance-in-care-facilities/>

² Ibid

Older people are entitled to bring personal items with them into their room. Aged Care Workers entering resident's rooms are expected to respect privacy including knocking and seeking permission before entering. The Charter of Care Recipients Rights and Responsibilities⁴ provides for these rights which includes the right to privacy but also the right to live free from elder abuse. The Charter also provides for choice and control as well as the ability to exercise all legal and consumer rights.

ARAS understands that many aged care homes currently utilise CT camera footage in their common areas. ARAS believes that the use of surveillance cameras in common areas should have visible signs notifying residents, visitors and staff of the use of cameras. ARAS additionally believes that should surveillance cameras be used in communal areas which can be booked exclusively for the use of a resident and family then the resident (or representative⁵) can request the aged care home to switch off the camera to ensure the privacy of the older person.

In terms of having a camera in the private areas of an older person's room consent needs to be given to having a camera in the resident's personal space. The issue of shared bedrooms will need to be carefully considered & negotiated on an individual basis.

Applying the principles:

- Choice of the older person to have a surveillance camera in their private space;
- Consent to have a camera needs to be informed and clearly documented;
- The model should be opt in rather than opt out;
- Control of the camera should rest with the older person and having the ability to switch the camera off when wishing to do so;
- Camera surveillance in use should be clearly 'signed' so that aged care workers and visitors are aware of the presence of camera surveillance;
- Footage should belong to resident;
- An agreed process should be in place for accessing/viewing the footage between the resident and the organisation;
- An agreed process should be in place for securing/storage of the footage;
- An agreed process should be in place for actioning any issues of abuse identified on the footage that meets the Approved Providers responsibilities;
- The above processes and costs of having camera in place should be agreed to by the resident and the organisation forming part of a residential agreement noting that the resident could request at any time for a camera to be activated;
- Where an older person is unable to consent then their legal representative such as a Substitute Decision Maker should be able to consent on their behalf;
- Disputes between representatives and service providers about the wishes of an older person who is unable to consent should be resolved by the relevant jurisdictional Public Advocate or tribunal.⁶

Comments about this draft can be directed to Carolanne Barkla: carolanneb@agedrights.asn.au

³ My Aged Care: Costs explained: <http://www.myagedcare.gov.au/financial-and-legal/aged-care-homes-costs-explained>

⁴ Aged Care Act 1997 Schedule 1 Charter of Care Recipients Rights and Responsibilities – Residential Care: <https://agedcare.health.gov.au/publications-and-articles/guides-advice-and-policies/charter-of-care-recipients-rights-and-responsibilities-residential-care>

⁵ <https://www.advancecaredirectives.sa.gov.au/about>;

⁶ Office of the Public Advocate: http://www.opa.sa.gov.au/what_we_do/dispute_resolution_service