



DRAFT POLICY FOR THE CARE OF FRAIL OLDER PERSONS

Comment to the National Department of Social Development

Introduction

The South African Human Rights Commission (SAHRC) welcomes the steps taken by the National Department of Social Development to develop policy that addresses the care of frail older persons. This group of persons are particularly vulnerable due to the impact of the ageing process. It is therefore necessary that government develop clear policy guidelines that outline how these persons will be cared for within our communities. Policy is urgently needed in this area in order that South Africa can effectively address the imbalances of our past and effect transformation of the services that are provided for frail older persons. Policy is also needed in order that South Africa reflects the international trend of a developmental approach towards ageing in which the elderly remain in the community for as long as possible. It is recognised that the majority of our elderly, including our frail elderly live in communities. Therefore any policy on care needs to reflect and address the realities of older persons in communities.

General Comments

a. The Policy should be placed within a human rights framework

The draft Policy is not firmly grounded within a human rights framework. It is recognised that in Point 3 reference is made to upholding human rights. However there is a lack of a human rights framework that will guide the Policy. This could be addressed in the following manners:

- ❖ By referring to the constitution and the relevant rights, in particular the right to dignity, equality and the right to social services in the Preamble of the Policy
- ❖ By referring to relevant international instruments, such as the UN Principles on Older Persons and the Madrid Plan of Action in the Preamble
- ❖ By referring to the Older Persons Bill (this is presupposing that this Policy will complement the Bill)
- ❖ By creating an objectives section which makes references to the rights of the elderly

b. The structure of the Policy should be changed to reflect an emphasis on community-based models of care.

The structure of the Policy as it currently stands perpetuates the perception that there is too much focus on residential care of the elderly to the exclusion of other forms of care of the elderly in the community. In terms of a developmental approach to ageing, which argues for the elderly to remain in the community for as long as possible, it is suggested that the Policy, in discussing Models of Care (Point 9) begin with Community Based Care Services and then move onto Residential Care. This continuum would reflect that residential care of the frail elderly is a form of 'last resort' care after the older person has accessed forms of community-based care.

The perception that the Policy focuses predominantly on residential care is perpetuated in a number of places in the Policy and this need to be addressed. For example:

- ❖ Point 5 – Scope, lists the different forms of care available for the frail elderly and begins with residential homes. This list should be turned around and it should begin with community based care services.
- ❖ Point 11, which deals with the Financing of Frail Care Services, only refers to residential care. It makes no mention of community based services for the frail elderly. It is suggested that the financing of frail care services in the community be addressed in this section. Again, the financing of frail care in the community should be dealt with first in the section and thereafter the financing of frail care in residential care should be addressed.

- ❖ Point 12 addresses Transformation of Frail Care Services. Again the language of the section reflects that transformation is predominantly being addressed in relation to residential care. e.g. Point 12.2. which addresses Criteria for Measuring Transformation deals with residential homes. Whilst this is important, it is of further importance that frail care as a whole is transformed and that there is inclusion of community based services in transformation.

c. Pro Forma documents should be provided in Annexures to the Policy

For example, see Point 9.1.11 – Management of Homes

In order to create standardised systems and structures in communities and thereby ensure service delivery standards, it is suggested that the policy be enlarged by the addition of Annexures that set out pro forma documents. There are many references throughout the policy to matters that could be set out in pro forma documents, these includes service contracts, protocol on the prevention of medical legal hazards, guidelines for infection control, written complaint and grievance procedure, incident report, complaints register, a transformation plan etc.....

d. The Policy should deal only with the subject matter on hand, namely care of frail older persons

The Policy document addresses community-based services for the elderly generally. It is not clear what aspects of community-based services are specifically for the frail elderly. It is suggested that the section on community-based services be reconsidered and only those aspects of care for frail elderly be included in the Policy. This issue however highlights the need for a comprehensive policy on community-based care for the elderly. The Department is encouraged to develop such a Policy.

e. Lack of interdepartmental intersectoral approach

The care of the frail elderly, particularly within communities, calls for an interdepartmental intersectoral approach. It is through cooperation with all relevant role-players that resources will be used in the best possible manner. The Policy should have a broad statement in which the Department commits to such an approach.

f. Standards and Regulation needed for home based care

Whilst the Policy focuses on standards and regulations for the care of elderly in residential places, it fails to provide satisfactory standards for the care of the frail elderly within the community setting.

For example, the Policy should provide that caregivers receive training and be registered with the Department. The Policy should set out the minimum levels of service that can be expected of a caregiver. The Policy should also stipulate what will happen in the event that there is a problem with the quality of the service provided. For example, this could be reported to the Department in order that remedial and/or disciplinary action could be taken.

Specific Comments

a. Day care

The provisions in the draft Policy on Day Care It is unclear to what extent day care for frail elderly is provided for in the policy.

b. Monitoring and Evaluation

This section of the draft Policy reflects a 'residential approach' to the care of the frail elderly in that the matters identified as being the subject of the monitoring process are relevant to residential homes and not necessarily community based services. It is suggested that separate sections within the draft Policy be created that address monitoring and evaluation systems for community based and residential care of the frail elderly.

It should also be ensured that the Policy does not create duplication of work for Department of Social Development officials. Also, that the monitoring process is not so cumbersome that it creates a drain on the resources of the organisations that are offering services to the frail elderly.

Many community-based organisations will be registered as NPO's in terms of the Nonprofit Organisations Act 1997. The Department of Social Development administers this Act. In terms of this Act, every registered nonprofit organisation must submit annual accounting records and reports (section 17) and a narrative report (section 18)(1)(a)) at the end of its financial year. The Act also makes provisions for certain information to be forwarded to the Department, such as a change of name, change in its constitution (section 19) etc. The Act also provides that the Minister may make Regulations. In sum, any Policy ought to have regard to these provisions of the Non Profit Act in order to ensure that there is no duplication of reporting to the same government departments.

c. Definitions

❖ **Respite care**

Reference is made in the Policy to respite care, however there is no definition of this term in the definitions section. It is suggested that a definition be developed and included in the Policy.

Such a definition should included the essential elements of respite care, namely that is the temporary care of a frail older person in order to give the persons carer a break from care-giving, or in other words, a 'time out' for the care-giver from the constant responsibility of caring for the older person.

❖ **Community based care**

This definition makes reference to a consumer. It would be more accurate to refer to an older person.

❖ **Frail care**

The words in brackets (*excluding psychiatric condition*) should be omitted. The draft Policy aims to deal with frail older persons and it is possible that a person is both frail and has a psychiatric condition. This person ought to fall within the scope of the Policy. It could be regarded as discriminatory if the Policy excludes persons who are frail and who also have a psychiatric condition.

❖ **Older Person**

There is a contradiction in the policy in terms of who may be recipients of frail care services. Point 6 refers to beneficiaries with the 60/65-age distinction for men and women. The definition of "older person" also makes the 60/65-age distinction. However the definition of "frail person" refers to any person over the age of 60.

The Department needs to take a policy decision as to whether - in regard to frail care services - these will be made available to everyone over 60 or whether the definition of older persons with the age distinction between male and female will be retained. In general, it is considered as discriminatory by many people to make a distinction between men and women on the basis of age.

The Department could reword the definition of older persons and state *“for the purposes of this policy older persons shall refer to all persons over the age of 60 years.”*

Contact Person

Judith Cohen, Parliamentary Officer
PO Box 3563
Cape Town
8000

Tel: 021 426 2277

Fax: 021 426 2875

E-mail: jcohen@sahrc.org.za