

How to successfully implement and manage Additional Services

- **Victor Harcourt**, Principal, Russell Kennedy Lawyers
- **Bruce Bailey**, Managing Director, Pride Living
- **Anita Courtney**, Principal, Russell Kennedy Lawyers
- **James Saunders**, Partner - Financial & Operational Management, Pride Living



Webinar housekeeping

- Attendees are on mute and your camera is off.
- We have BD tech support live to assist with any technical issues.
- Use the chat function for comments/technical issues.
- Use Q&A function for questions - addressed at the end of the webinar.
- Please complete the post webinar survey - link will be sent to you.
- QR code linking to survey so you can provide instant feedback.
- Slide deck will be available on request.
- Webinar is recorded and will be available on request.

Legal considerations for Additional Services

**Victor Harcourt, *Principal,*
*Russell Kennedy Lawyers***



Responsibility of Approved Provider

S 56-1(e) to charge no more for any other care or services than an amount agreed beforehand with the care recipient, and to give the care recipient an itemised account of the other care or services.

Extra Services to Additional Services

- Extra services can be replaced with additional services
- The additional services agreement can be “substantially” the same as the ES agreement

(DSS Information to Providers & Consumers)

Australian Consumer Law

- Consumer Law contract
- Compliance program



How to implement Additional Services

James Saunders

*Partner - Financial & Operational
Management, Pride Living*

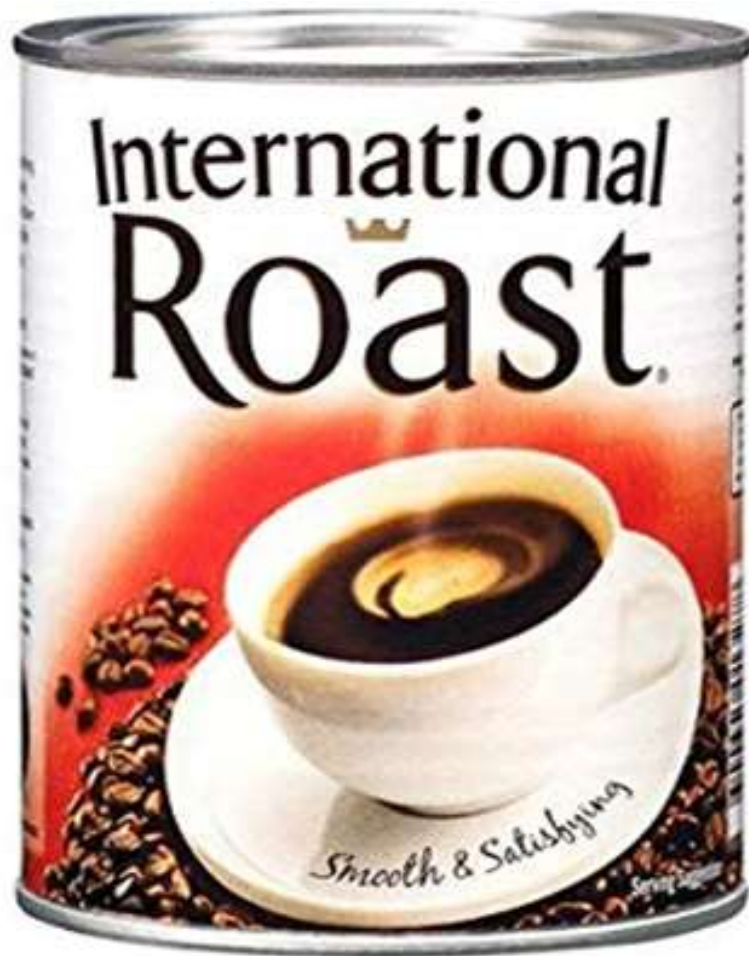


CONFIDENCE LEADS TO SUCCESS



EMBRACING CDC THROUGH ADDITIONAL SERVICES

What coffee do you offer?



Or

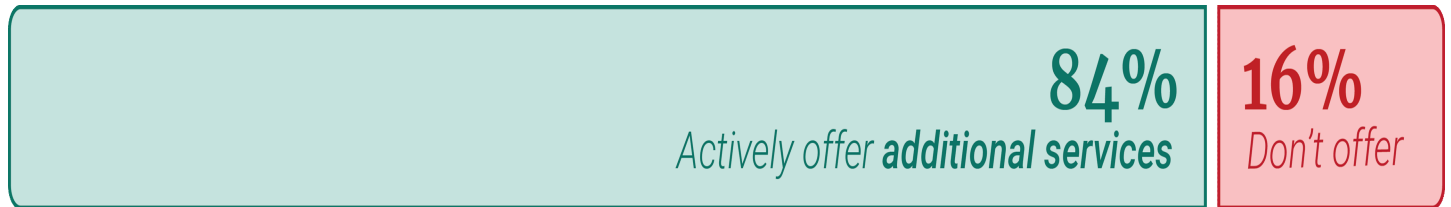
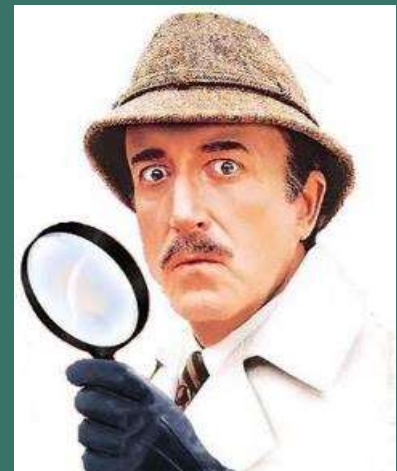


What coffee do you drink?

Pride Living Study

100

Providers



2019 Additional Services Revenue - \$122.2 million

Up 26% - 8th Annual ACFA Report

CONFIDENCE LEADS TO SUCCESS

Pride Living Study

100
Providers

\$5 - \$65

Daily Fee Range

\$23

Median Daily Fee

\$25.65

Average Daily Fee

foxtel

Foxtel



Menu choice



Hairdressing



Alcohol with meals



Events and outings



Wi-Fi



In-room TV



Garment labelling



Telephone



Premium toiletries



CONFIDENCE LEADS TO SUCCESS

“charging
does not fit
with our
organisation’s
mission”



*The government only funds us to
provide the basics.*

*You provide a higher level of service
and only ask residents to make a
modest contribution towards the cost
of providing these services*

**“we don’t
want to
discrim-
inate
based on
wealth”**



- ***“Sorry you can’t have a beer because you haven’t paid extra”***
- This won’t happen if you only charge new residents for the services you already provide.

**“...our
residents
can’t
afford it”**

Offer to take the fee out of the RAD

Many providers offer a discount or waiver fees for supported residents

The average supported resident has a disposable income of \$14.33 per day.

Offer the package to the family to pay as a gift for mum or dad

Risk Management

Rule 1. Accept there will be complaints (but no more than usual)

Complaints to the Commission –

- Not providing services e.g. BUPA case
- No prior [written] consent (with EPoA)
- Fees not explained properly e.g. ‘entertainment package’
- Lack of consultation re: options (free v cost)
- No fee estimate or excessive fees (escorts)
- Charging for services covered by the Act
- No “reasonable or transparent” process for renegotiating packages if residents cannot benefit from some services
- Varying/removing services without individual consent

Key legal risks and compliance issues

Anita Courtney, *Principal,*
Russell Kennedy Lawyers



Current landscape

- Mandatory services are ok in theory
 - See the section on additional services fees at:
<https://www.myagedcare.gov.au/aged-care-home-costs-and-fees>
- Itemisation is critical: agreement and in invoice
- Capacity to benefit seems here to stay (for the moment)
- Unclear what services are/aren't ok to charge for
 - There is no definitive list
- Inconsistent messages and decisions from regulators
- Significant uncertainty
 - Government review and consultation (going nowhere?)
 - Tune report on ice
 - Nothing clear in the RC recommendations on additional services

What happens if you get it wrong?

ACQSC directions may include:

1. Re-negotiate with residents to change their agreements
 - eg putting in capacity to benefit clauses
2. Agree with each resident about which items they benefit from/have capacity to benefit from
3. Refund money where you have charged for items that the resident doesn't benefit from or that the ACQSC says you should not have charged for

What to look for when developing an additional services list

- Differentiating your services from the specified care and services in the *Quality of Care Principles 2014* and your room pricing
- Check your My Aged Care room descriptions and Pricing Commissioner applications (can't charge for items in there)
- How will you demonstrate the resident benefits/has capacity to benefit from this item?
- Is your additional services list clear enough, but also flexible enough to accommodate changes beyond your control?

Valuation / pricing for packages

- Will you set an individual “price” for each item, module, or just the package?
- Pricing each item
 - a) Market value eg \$3.00 for coffee
 - b) Cost to you plus an administration and profit margin? What will these be?
 - c) Arbitrary – ie what will people pay
- Need to consider approach to **discounting** when no capacity to benefit
 - eg if you value a package at \$30, but you are only charging \$20 and the resident can't drink the \$3 coffee, do you have to give a discount?

Capacity to benefit

- Best to have a written policy
- Needs to be done regularly (eg care plan reviews)
- Each review should be documented
- Show how the resident benefits from EACH item? If so, how?

Item	Relevant Clinical / other needs	Benefit Y/N?	Comments
Foxtel	Resident has impaired hearing and suffers from dementia. MMSE 22/30	Y	Resident is regularly witnessed watching Foxtel. Resident say she likes watching old movies.

Customising your resident agreements

- Need to reflect what you are doing: may need to “override” default provisions if you are doing mandatory packages
- Itemisation of package items
- Capacity to benefit clauses
- Explain how you will discount
- Have a clause for changing the additional services
- Have a clause dealing with fee variations (eg annual/CPI increase). Careful with these
- Have a clause for withdrawing additional services/modifying them in response to regulatory changes

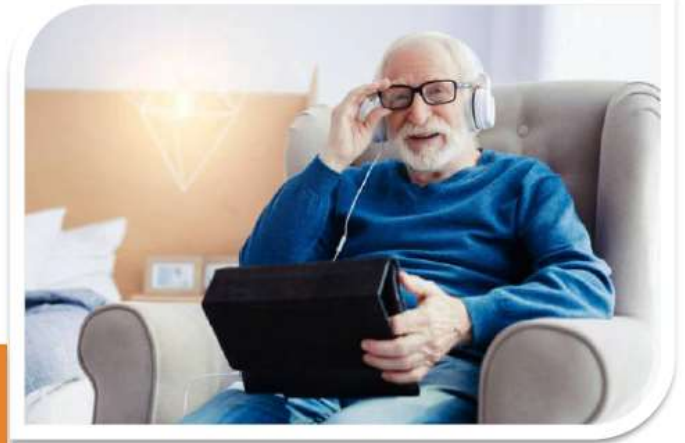


National electronic

Resident Agreement Software

with

Additional Services Feature



- ✓ Trusted industry software to manage Additional Services efficiently
- ✓ Define and allocate Additional Services offerings to multiple facilities
- ✓ Customise Additional Service conditions to individual facilities or organisation wide
- ✓ Standardise or customise pricing to individual residents
- ✓ Clearly display itemised fees in Agreements
- ✓ Easy opt-in/opt-out using template letters
- ✓ Reporting function to track performance



electronic

Home Care Package

with

Unspent Funds Feature

Web www.e-tools.com.au | Tel 03 9573 3277 | Email info@e-tools.com.au



Q & A

- **Victor Harcourt**, Principal, Russell Kennedy Lawyers
- **Bruce Bailey**, Managing Director, Pride Living
- **Anita Courtney**, Principal, Russell Kennedy Lawyers
- **James Saunders**, Partner - Financial & Operational Management, Pride Living



Contacts



Victor Harcourt
Principal, Russell Kennedy Lawyers

03 9609 1693
vharcourt@rk.com.au



Anita Courtney
Principal

03 8602 7211
acourtney@rk.com.au



Bruce Bailey
Managing Director, Pride Living

bruce.bailey@prideliving.com.au



James Saunders
Partner - Financial & Operational
Management, Pride Living

james.saunders@prideliving.com.au



Feedback

Scan this QR code to provide instant feedback on the session.

Disclaimer

The information contained in this presentation is intended as **general commentary only** and should not be regarded as legal advice.

Should you require specific advice on the topics or areas discussed, please contact the presenters directly.



Russell Kennedy Pty Ltd
info@rk.com.au
russellkennedy.com.au

Melbourne

Level 12, 469 La Trobe Street
Melbourne VIC 3000
PO Box 5146
Melbourne VIC 3001 DX 494 Melbourne
T +61 3 9609 1555 **F** +61 3 9609 1600

Sydney

Level 6, 75 Elizabeth Street
Sydney NSW 2000
Postal GPO Box 1520
Sydney NSW 2001
T +61 2 8987 0000 **F** +61 2 8987 0077

An international member of

AllyLaw

Liability limited by a scheme approved under Professional Standards Legislation.

russellkennedy.com.au