

National Aged Care Quality Regulatory Processes

PROMOTING QUALITY CARE IN RESIDENTIAL AGED CARE

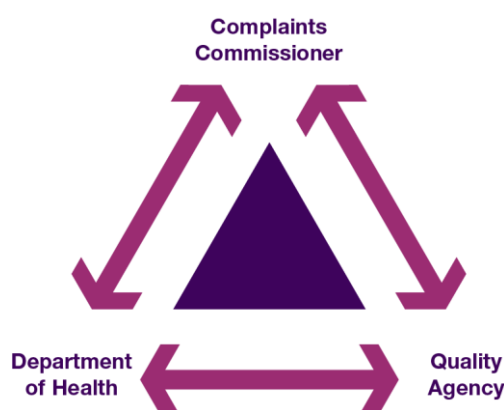
The [Aged Care Act 1997](#) (the Act), establishes a broad quality assurance framework to promote quality in residential aged care, including:

- accreditation and monitoring of approved providers against the accreditation standards;
- management of non-compliance with approved provider responsibilities under the Act;
- the provision of internal complaints mechanisms by approved providers;
- government funded advocacy services to support care recipients in exercising their rights; and
- assistance with complaints through a free service delivered by the Aged Care Complaints Commissioner.

1. Organisations that support aged care quality regulation

Three Commonwealth entities have responsibilities under the Act to support the delivery of high quality aged care services:

- the Australian Aged Care Quality Agency (Quality Agency) – a statutory agency that has responsibility for accrediting residential care providers and monitoring compliance with quality standards;
- the Australian Government Department of Health (the Department) – supports residential care providers to comply with their legislated and contractual obligations and enforces compliance, when required;
- the Aged Care Complaints Commissioner (Complaints Commissioner) – provides a free service to help people resolve complaints about the quality of care and services being delivered in residential care.



These entities work cooperatively through formal referral arrangements, information sharing and regular meetings, to ensure there is a coordinated approach to protecting the safety and wellbeing of people receiving aged care services.

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2. Accreditation of Residential Aged Care Facilities

2.1 Accreditation Standards

Most Commonwealth-funded providers of residential aged care services are required to be accredited against legislated standards (Accreditation Standards) for the quality of care that they provide. This process is intended to minimise risk and promote quality across all residential aged care services.

The [Quality Agency](#) is responsible for accrediting residential aged care facilities and monitoring ongoing compliance with four [Accreditation Standards](#):

- Standard 1: Management systems, staffing and organisational development;
- Standard 2: Health and personal care;
- Standard 3: Care recipient lifestyle; and
- Standard 4: Physical environment and safe systems.

There are 44 expected outcomes within the four Accreditation Standards. Central to each of the standards is an expectation that approved providers commit to continuous quality improvement for the services provided.

The Quality Agency also supports approved provider performance through education and training and compliance assistance, and works with the community to promote quality care for older people.

2.2 The Accreditation Process

The residential aged care accreditation process involves a self-assessment undertaken by the approved provider, followed by a site audit by the Quality Agency to assess performance against the Accreditation Standards.

In considering whether to accredit a approved provider, the Quality Agency seeks information from additional sources, including:

- the perspectives of consumers or their representatives about the quality of the care and services captured through interviews; and
- consideration of relevant information that consumers, the public, the Complaints Commissioner and the Department give to the Quality Agency.

At the conclusion of the accreditation process, the Quality Agency publishes its decision, including the report on the site audit on its website.

2.3 Support for Accredited Residential Aged Care Providers

The Department supports accredited residential aged care approved providers to meet their obligations through the provision of information resources, including:

- the legislation and the [Quality of Care Principles 2014](#);
- My Aged Care phone line (1800 200 422) and website (myagedcare.gov.au);

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- information sheets on various matters including the prudential arrangements for accommodation bonds and payments, refundable accommodation deposits and daily accommodation payments and the rules relating to fees and charges;
- the Aged Care Funding Instrument (ACFI) User Guide;
- Home Care Packages Programme Guidelines;
- The Guide to Aged Care Law; and
- The Terms and Conditions for Aged Care Funding booklet.

3. Compliance Monitoring

3.1 Accreditation site visits

The Quality Agency undertakes different forms of contact with accredited residential aged care services to assess their ongoing performance against the Accreditation Standards. These include:

- Re-accreditation site audit – an announced site visit by an assessment team to assess a residential aged care service’s performance against all the Accreditation Standards. It occurs after an approved provider has made an application for re-accreditation (due six months before current accreditation expires) and is usually conducted once every three years.
- Review audits – A site visit to assess a residential aged care service’s performance against all of the Accreditation Standards. A negative finding may lead to accreditation being varied or revoked. These visits occur as required by the Quality Agency.
- Assessment contacts – include any form of contact between the Quality Agency and a service other than a site audit or review audit. An assessment may be conducted through a site visit (assessment contact visit) or by telephone (desk assessment contact), that focus on a service’s performance against particular parts of the Standards. Assessment contacts can be conducted to:
 - Assess the service’s performance against the Standards;
 - Assist the service’s continuous improvement;
 - Provide information and education; and
 - Determine if there is a need for further review.

Assessment contacts or review audits may be announced or unannounced. It is a requirement that every residential service receives at least one unannounced visit each year.

3.2 Communication of non-compliance to the Department

If the Quality Agency identifies non-compliance where a provider fails to meet the one or more expected outcomes of the Accreditation Standards, it will require the provider to address the non-compliance by setting a Timetable for Improvement. The Quality Agency informs the Department of the non-

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compliance, who assesses the risk posed and decides if it appropriate and proportionate take any action in relation to the non-compliance.

The Department also receives information about potential non-compliance through other sources, including:

- within the Department;
- health complaints bodies;
- consumer advocacy groups;
- direct contact with aged care providers;
- media reports; and
- letters to Members of Parliament and the Department.

3.4 Managing non-compliance

The purpose of the regulatory process is to protect the health, welfare and interests of current and future care recipients receiving residential aged care services. This is achieved by taking action which aims ensure the provider returns to compliance as quickly and efficiently as possible.

To best support residential aged care providers, the Department does a risk assessment of identified non-compliance to determine an appropriate and proportionate compliance response.

The Department employs a number of approaches to manage non-compliance commensurate with the risk posed by the non-compliance and the provider's response to the Department's concerns. These include:

- Education and support;
- Administrative resolution;
- Legislative Actions;

3.4.1 Education and support

Non-compliance may occur in circumstances where a provider of residential aged care services does not fully understand their obligations or how to implement strategies and practices to meet expected standards of care.

Where the risk to residents is low, the Department can provide education and support to providers to guide them back to compliance with the standards.

3.4.2 Administrative resolution

Where the Department determined that the risk is low to care recipients and provider demonstrates the willingness to rectify the non-compliance, the Department will monitor the progress of the provider in line with the Quality Agency's Timetable for Improvement. This approach can deliver positive results which avoid the need for the Department to take legal action under the Act.

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For more serious breaches of the Accreditation Standards or in circumstances where providers fail to address the Department's concerns appropriately a stronger approach may be taken. In these cases the Department may enforce compliance through its powers under legislation to take action. The sections below describe the different actions that the Department may take for serious incidents of non-compliance with the Accreditation Standards.

3.4.3 Legislative actions

Notice of non-compliance (NNC)

The Department may issue a notice of non-compliance (NNC) that details the Department's concerns and requests a response from the provider. The provider must demonstrate that they have provided an appropriate Continuous Improvement Plan to the Quality Agency and demonstrated that they will return to compliance within the date specified by the Quality Agency. If the provider's response is appropriate, the Department gives the provider a Notice to Remedy (NTR) and the provider signs an Undertaking to Remedy (UTR) the non-compliance within the specified timeframe.

The Department monitors the provider's progress against the undertakings to ensure corrective actions are completed in line with the Undertakings. If the provider does not complete the required actions and return to compliance within the specified timeframes, the Department can proceed to impose Sanctions.

Once the written submission is provided by the provider, the Department publishes information regarding the NNC (including the name and address of the service) on the My Aged Care website.

Sanctions

If the non-compliance is not addressed by the provider within the timeframes set, the Department may impose sanctions.

Sanctions can also be imposed immediately without issuing an NNC where the Department determines that there is an immediate and severe risk to care recipients. This could be following identification of serious risk by the Quality Agency during one of the site visits.

Sanctions can include revoking or suspending approval as a provider of aged care services or restricting approval to provide aged care services or to receive subsidy. The type of sanctions imposed depends on the nature of the non-compliance and the ability or willingness of the provider to address the non-compliance. The most common sanctions imposed are the requirement to appoint an adviser and/or administrator to support the provider to come back to compliance; restricting subsidy for new care recipients; and delivery of specific training.

Providers may be sent a notice of intention to impose sanctions in some circumstances. This notice describes the provider's non-compliance, the reasons sanctions may be imposed and the consequences of the sanctions. The provider is required to respond in writing to the notice then the Department decides whether to impose sanctions.

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If sanctions are imposed the Department closely monitors the service to ensure that problems are fixed quickly and that care recipients are supported during this period. Providers are required to notify care recipients and representatives, in writing and through a meeting, of the problems that caused the sanctions, the actions they are taking to fix the problems and answer any questions. The Department also writes to care recipients and their representatives and publishes information about the sanctions on the My Aged Care website.

4. Complaints

Consumers and their representatives, care providers and visitors play a critical role in supporting delivery of quality care.

The complaints process support accreditation and compliance monitoring processes to identify care that does not comply with the Accreditation Standards and assist the provider to resolve these issues. The process can also assist providers, staff, care recipients and their representatives to work together to resolve disputes.

In addition to information provided on the standards of care that a care recipient can expect from a provider under the Act and the Quality of Care Principles 2014, the [Charter of Care Recipients' Rights and Responsibilities - Residential Care](#) outlines the rights and responsibilities of residents and their aged care service.

4.1 The role of the Aged Care Complaints Commissioner

The Complaints Commissioner provides a free service for anyone to raise their concerns about the quality of care and services being delivered to people receiving aged care services subsidised by the Australian Government.

The Complaints Commissioner's role is outlined in the *Aged Care Act 1997* and [Complaints Principles 2015](#). This role includes:

- resolving complaints about aged care services
- educating people and aged care providers about the best ways to handle complaints and the issues they raise, and
- providing information to the Minister in relation to any of the Complaints Commissioner's functions, as requested.

Complaints officers who handle complaints come from diverse backgrounds and include registered nurses and allied health professionals and people who have worked as lawyers, counsellors, mediators and administrators. They may speak to individuals making complaints on the phone, communicate via email or letter or engage directly during a visit to an aged care service.

The Complaints Commissioner took responsibility for all complaints about Australian Government funded aged care services on 1 January 2016.

The Complaints Commissioner is independent of the Department. Prior to 2016, complaints about aged care facilities were managed by the Department through the Aged Care Complaints Scheme.

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5. Community engagement to promote quality

Community engagement is instrumental to ensuring that aged care quality policy and regulatory processes adapt to changes in business practice and care recipient expectations.

Two key committees are in place to fulfill this role:

Aged Care Quality Advisory Council

The Aged Care Quality Advisory Council advises the Quality Agency on its functions and operations.

Advisory Council members have included representation from clinicians, approved providers and consumers.

Aged Care Sector Committee

The Aged Care Sector Committee brings together key stakeholders in the aged care sector to work in partnership on the development and implementation of aged care policy by the Australian Government.

The Committee has a key role in advising the Minister for Aged Care on the Government's aged care reform process and its future direction. It will seek to do so in a manner that takes account of all stakeholders.

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6. Ongoing Reform of quality regulation

This review is being conducted against a backdrop of significant reforms to aged care that are being implemented over 10 years as part of the *Living Longer Living Better* package. Many of these reforms have a specific focus on improving the quality of care and ensuring that aged care services better meet consumers' needs and expectations.

Preliminary outcomes of these reforms included the establishment of the Quality Agency in 2013 and the rollout of the National Aged Care Quality Indicator Program in January 2016.

In 2017, the Department undertook an extensive consultation process with consumers, approved providers and the community to inform development of a [single set of aged care quality standards](#) for all aged care services and a streamlined approach for assessing provider performance against these standards. This work is ongoing.

7. Alignment with other Commonwealth Inquiries

The Australian Law Reform Commission (ALRC) has concluded an Inquiry into Elder Abuse. The ALRC made 14 recommendations relating to aged care which will be considered through this Review, where relevant.

On 13 June 2017, the Senate referred the matter '[Effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised](#)' to the Senate Community Affairs References Committee for inquiry and report.

Submissions are due by 3 August 2017 and the reporting date is 18 February 2018.