



## Aged Care Quality and Safety Commission Statement of Expectations

Ministerial Statements of Expectations provide greater clarity about the implementation of government policies and objectives relevant to the regulator in carrying out its statutory functions. As the Government Minister responsible for Aged Care, my responsibilities include administration of the *Aged Care Quality and Safety Commission Act 2018* (Commission Act), and the Aged Care Quality and Safety Commission Rules 2018. This statement sets out my expectations of the Aged Care Quality and Safety Commission (Commission).

### **Overview**

The Commission is an independent statutory agency pursuant to the Commission Act and *Public Governance, Performance and Accountability Act 2013* (PGPA Act). The primary role of the Commission is to:

- protect and enhance the safety, health, wellbeing, and quality of life of aged care consumers,
- promote engagement with consumers about the quality of care and services, and
- promote confidence and trust in the provision of aged care.

I, as the Minister for Aged Care, recognise and respect the independence of the Aged Care Quality and Safety Commissioner (Commissioner) appointed under the Commission Act, and their responsibility for the regulation of Commonwealth-funded aged care services, as set out in the Commission Act.

### **Regulatory Activities**

I expect the Commission to undertake activities that support the Government's objective of ensuring safety, dignity, and wellbeing of every older person using aged care services. To achieve this, the Commission is expected to undertake its regulatory activities transparently and collaborate and engage with Government, the aged care sector, peak and industry bodies, and consumers to implement major reforms under the new Aged Care Act.

In taking a risk-based approach to regulation, I expect the Commission to take proportionate action against non-compliant providers, using the suite of regulatory interventions available, and to gather intelligence and data about providers to drive safe and quality aged care service delivery.

### **Principles of Regulator Best Practice**

In performing its functions as the regulator of Commonwealth-funded aged care services, I expect the Commission to observe the principles of regulatory best practice including continuous improvement and building public trust; being risk based and data driven; and collaborating and engaging with stakeholders in relation to regulatory practices.



I expect the Commission to embed and act in accordance with the Government's principles of regulatory best practice<sup>1</sup> when conducting its operations, as well as to strive for continuous improvement against these principles.

### **The Government's Policy Priorities and Objectives**

I acknowledge the Commission's demonstrated commitment to support the delivery of significant reforms we have legislated, including the extension of the Serious Incident Response Scheme to in-home care, the establishment of a new Code of Conduct, introduction of Star Ratings and Dollars to Care and new provider governance reforms. I expect this commitment to continue as we work towards implementing the new rights-based Aged Care Act.

12 months on from the commencement minimum staffing requirements for residential aged care, including 24/7 nursing and mandatory care minutes, I expect the Commission to continue to monitor and enforce the implementation of these direct care requirements. If residential aged care providers are actively working towards complying with their care requirements and are taking all steps to ensure the provision of safe and quality care, I expect the Commission to actively monitor risks and work with the provider to improve their compliance. This particularly applies to aged care homes located in thin markets with chronic workforce shortages. At the same time, I support the Commission to use its full suite of powers to ensure compliance if aged care homes are not making genuine attempts to meet their care requirements, or they are inaccurately reporting their delivery of care.

The next 12 months represents some of the most critical work for both the Commission and the Department of Health and Aged Care (Department) with the introduction and preparation for the new Aged Care Act, which will encompass the Commission's legislation, in keeping with the Royal Commission into Aged Care Quality and Safety recommendations. I acknowledge the significant contribution of the Commission to date in progressing the development of the new Aged Care Act.

Subject to parliamentary processes, the new Aged Care Act will commence from 1 July 2025, in line with the new Support at Home program. The Commission's continued contribution to the legislative process and development of subordinate legislation will be important to support operation of the new Aged Care Act and implementation of aged care reforms.

The new Aged Care Act represents a significant amount of change across the aged care system. I acknowledge the Commission's continued engagement with the Department to ensure that the aged care sector is prepared for the changes arising from the new Aged Care Act. The Department will support the introduction of the Bill and will work with the Commission on communication and guidance materials in response to enquiries. The Department will also work with the Commission on an Integrated Sector Readiness Plan to support the transition period and implementation of the Act. This plan will be developed in partnership with the Commission and will be tested with the sector. This will enable delivery to commence upon Royal Assent of the Bill. The plan will include structured communication, engagement, guidance, and training activities to support the transition arrangements and changes arising from the new Aged Care Act's commencement.

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<sup>1</sup> Australian Government, Department of Finance, [Principles of Regulator Best Practice](#), accessed 13 June 2024.



I acknowledge the Commission's demonstrated commitment to the implementation of recommendations made in the Independent Capability Review of the Aged Care Quality and Safety Commission (Capability Review), which is illustrated in the Commission's Capability Review Action Plan (Capability Action Plan). Noting that the Capability Action Plan identifies six workstreams that aim to provide better outcomes for access to aged care services, as well as stronger corporate capabilities, I expect the following workstreams to support public commitment to and delivery of Capability Review recommendations:

- **Operational function maturity:** provide a better regulatory service to the community by delivering matured regulatory and operational functions.
- **Data and intelligence:** better understand and respond to the risks to aged care consumers by strengthening the Commission's data and intelligence.
- **Stakeholder engagement:** increase understanding, trust, and respect with stakeholders through enhanced engagement.
- **Governance and funding:** strengthen the Commission's governance and funding arrangements.
- **Workforce management:** maximise the potential of the Commission's workforce.
- **ICT systems:** evolve the Commission's ICT systems to be robust and user focused.

I expect this commitment to continue and that recommendations are implemented in accordance with the Government response and in collaboration with the Department.

The new regulatory model proposed under the new Aged Care Act will transform the way the aged care sector works. It will emphasise stronger working relationships with the sector, developing deeper trust and embracing more transparency and collaboration. To promote public confidence, I expect the Commission to maintain a Regulatory Strategy which details the Commission's approach to delivering regulatory functions. This should include ensuring consistency in decision-making, a fair, balanced and effective regulatory approach, and transparency in Commission policies, processes and engagement with stakeholders.

### **Relationship with Older People Accessing Aged Care Services**

I expect the Commission to:

- Continue to actively promote the obligations of providers in meeting the needs of older people accessing aged care services.
- Continue supporting effective implementation of consumer advisory bodies to ensure provider governing bodies hear the voice of older persons using their services.
- Continue to support older people and their advocates who make complaints or provide feedback to the Commission under the Commission Act, including maintaining transparency both throughout, and following, the complaints resolution process.
- Protect older persons making complaints or providing feedback to the Commission from any form of retribution or victimisation by providers as a result of that contact and take appropriate action to address any such conduct where it does occur.



- Utilise the Complaints Commissioner as the dedicated senior employee with primary responsibility for resolving and investigating complaints made to the Commission.
- Undertake compliance activities to ensure all older persons receive safe and quality care that meets their care needs, particularly their clinical care needs, and have access to relevant services if they need them.
- In particular, in relation to older persons whose needs include clinical care, use regulatory powers available to the Commission to monitor and respond to instances of providers not meeting clinical care requirements, including 24/7 nursing, care minutes and vaccinations, when identified.
- Maintain an up-to-date website, as well as other relevant communication products to ensure there is clear and transparent messaging available to older people around the role of the Commission in the broader aged care system.
- Tailor communication approaches and messages to consumers from diverse backgrounds, and use translating and interpreting services as appropriate.

### **Relationship with Workers**

I expect the Commission to:

- Continue (where appropriate) to ensure transparency and responsiveness for aged care workers on the actions the Commission is taking against a provider they are engaged with at a particular service site.
- Hold providers to account for meeting their obligations related to workforce management.
- Be open to receiving and to be responsive to information from the aged care workforce and consider any concerns raised by the workforce, noting the importance of listening to the voices of workers in the aged care sector, including through their representatives.
- Be transparent and responsive about complaints that have been made against a provider at a particular service site. I also expect the Commission to protect aged care workers when they make complaints or disclosures about a provider or a particular service site.
- Uphold the legal requirements of the Commission Act concerning aged care workers and utilise powers available to the Commission to investigate and respond to instances of providers not meeting requirements when identified.
- Support the aged care workforce to understand their obligations under the Code of Conduct.
- Support the aged care workforce as it transitions to the new Aged Care Act, including assisting the aged care workforce to understand the expectations and requirements of the aged care sector under the new Aged Care Act.



## **Relationship with Providers**

I expect the Commission to:

- Continue to develop and deliver communication, education and training activities and resources to ensure providers and workers understand their obligations to deliver safe, quality care and the Commission's responsibilities in the new Aged Care Act.
- Be regularly engaged with individual providers to understand the context in which they are operating. This understanding of context should assist to build trust and inform the Commission in exercising its range of functions in the manner that best facilitates high quality care in the context within which it is delivered.
- Continue to support the Department in the management of the Compliance Star Rating, including its transition to the new Aged Care Act, to support quality improvement and increased transparency in aged care homes.
- Take a fair and sensible approach to the regulation of providers' workforce-related responsibilities, including the 24/7 registered nurse and care minutes requirements, through the lens of risk and wellbeing to older people and ensure that any compliance responses are proportionate to the issues identified.
- Work with providers and have regard to their efforts to fulfil their workforce-related responsibilities when undertaking its compliance activities. This includes having regard to the providers' recruitment strategies, the specific local circumstances (such as workforce challenges in their locality) and clinical governance and alternative clinical care arrangements in place to ensure that older people are safe and receiving quality care.
- Continue to actively monitor risks and work with the provider to improve their compliance with these responsibilities, where approved providers are actively working towards complying with their workforce-related responsibilities and are taking steps to ensure the provision of safe and quality care.
- Adopt a risk-based approach and use regulatory powers available to the Commission to enforce the compliance of providers if older people are at risk of harm due to providers' failure to implement appropriate strategies and where there are no underlying workforce challenges that could impede the provider from meeting their care minutes and 24/7 registered nurse responsibilities.
- Work with providers where low vaccination rates for residents are identified and take regulatory action where the Commission determines that providers are not meeting or taking steps to comply with their responsibilities for providing safe and quality care in relation to vaccinations for residents.
- Monitor whether residential aged care providers are delivering lifestyle, recreation and allied health services required under Schedule 1 of the Quality of Care Principles and take regulatory action where these required and funded services are not delivered.

## **Relationship with Minister and Portfolio**



The Commission plays an essential role in ensuring that the Government and I, as Minister for Aged Care, are well-placed to respond promptly to any policy challenges and opportunities arising from the administration of aged care regulatory functions, or the regulation thereof. I expect timely information about any emerging trends, issues or risks relevant to the Commission's operations, particularly those that may impact on Government operations or policies.

The Department also provides accurate and timely policy advice on significant issues relating to aged care regulatory functions, in accordance with the Government's policy priorities and objectives. The Department considers the knowledge and expertise of the Commission when considering changes to policy and legislation that impact on quality, safety, and choice in aged care.

Accordingly, I expect the Commission to work collaboratively with the Department on significant issues relating to strengthening the aged care sector. I note that a Memorandum of Understanding has been jointly developed and endorsed by the Department and the Commission, recognising, and supporting the separate roles and responsibilities of each agency, as well as the many linked functions and responsibilities and encourages ongoing cooperation.

As the responsible Minister, I will provide an enabling environment for the Department to consistently implement best practice by ensuring the Commissioner is well informed of the Government's policy direction, as specific initiatives and strategies are considered.

### **Accountability**

As the Minister for Aged Care, I recognise the role of the Aged Care Quality and Safety Advisory Council, in the operation of the Commission, and its path to greater independence as per the Capability Review report.

### **Organisation Matters**

The Commission operates as part of the Australian Government and is accountable to the Parliament of Australia, and the public, through me as the Minister for Aged Care, the Parliamentary Committee process, and the tabling of the Commission's Annual Report.

In accordance with the PGPA Act and the Commission Act, I expect that the Commission will integrate performance measure into the Commission's Corporate Plan and subsequently report on outcomes against each measure in the Commission's Annual Report. As the Minister for Aged Care, I will assess the Commission's performance against these measures as part of its oversight function in determining whether the Commission is successfully achieving its objectives.

To enable greater transparency and accountability, I expect the Commission to publish its Statement of Intent in response to this Statement of Expectations on its website, and subsequently incorporate both in its Corporate Plan.