Aged care reforms – webinar Q&As

This document provides responses to questions asked during the aged care reform webinars hosted by the Aged Care Quality and Safety Commission that could not be responded to due to time constraints. The information is current as at 28 September 2022. This document will be regularly updated. For more information on the webinar series please refer to the Commission's aged care reform web page. The table below provides an overview of the service types that will be subject to each of the 4 reforms under the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022* that are directly relevant to the regulation of aged care.

Reforms from a regulatory perspective	Residential	Short-term Restorative Care – Resi	HCP	Short-term Restorative care - HC	CHSP	NATSIFAC	Transition Care	MPS	Explanatory Notes
Code of conduct	✓	✓	✓	✓			✓	✓	The Code of Conduct responsibilities under the Aged Care Act 1997 will not apply to service providers of CHSP and NATSIFACP or their workforce from 1 December 2022. This is because the responsibilities under the Aged Care Act apply to approved providers. CHSP and NATSIFACP service providers are not approved providers under the Aged Care Act. It is expected that similar provisions will be extended to all Commonwealth-funded aged care services as part of the planned introduction of a new aged care Act.
Strengthened Governance	✓	✓	✓	✓			✓	✓	CHSP and NATSIFAC will be considered as part of the Support at Home Reforms. This reform does not apply to approved providers that are Aboriginal Community Controlled Health Organisations or state/territory or local government authorities (which may be some MPS services)
SIRS in home services			✓	✓	✓	✓	✓	✓	The Serious Incident Response Scheme is already in place for residential care services and settings.
Restrictive Practices consent provisions	✓								Applies to residential aged care only.

Serious Incident Response Scheme (SIRS) in home services

Applies from 1 December 2022 to: approved providers of Home Care Package, Short-term Restorative Care (Home Care), Commonwealth Home Support Programme, National Aboriginal and Torres Strait Islander Flexible Aged Care, transition care and multi-purpose services providers.

Stay up to date with the latest information on SIRS in home services on the Commission's aged care reform web page.

Scope

1. Will the SIRS program in home services be similar to that in residential aged care? If not, what will the differences be?	SIRS for home services will be similar to SIRS for residential aged care. Home services providers are already required to maintain an incident management system, and they will need to implement the reporting of reportable incidents to the Commission. Providers will report in the same way that residential providers do, through the My Aged Care Service and Support Portal. The main difference will likely relate to the reporting of restrictive practices – given that the restrictive practice requirements in the Quality of Care Principles only apply to residential providers. Once the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new responsibilities.
2. Is there any more clarity for SIRS commencement date for in home care? When is SIRS going live in home services and what will we need to train our staff in?	The SIRS will be expanded to home services on 1 December 2022. SIRS responsibilities for home services will be similar to those relating to residential aged care. Providers can review the guidance already available for reporting in the residential care program to start to understand the new requirements.

3. Will SIRS be extended to CHSP and NATSIFAC as well?	Yes. From 1 December 2022, SIRS will be extended from residential aged care to also apply to providers of home care packages, Commonwealth Home Support Programme (CHSP) services, and National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP) services.
4. Will the SIRS requirement apply to CHSP volunteers?	Yes. SIRS will be introduced for CHSP services from 1 December 2022, and for the purpose of provider responsibilities, staff members include volunteers.
5. We only provide Occupational therapy services to CHSP consumers (home modification specifically) so does SIRS still apply to us?	The SIRS establishes responsibilities for all Commonwealth-funded providers of aged care to prevent and manage incidents (focusing on the safety, health and well-being of consumers), to use incident data to drive quality improvement and to notify reportable incidents. If you are a Commonwealth Home Support Programme provider, SIRS will apply to you.
6. If the serious incident involves the consumer and someone other than a staff member, will it need to be reported? For example, family and domestic violence or concerns regarding financial abuse?	SIRS for home services will be similar to that for residential aged care. Reporting responsibilities apply to incidents that occur 'in connection with' the provision of care and services to a consumer. 'In connection with' refers to the relationship or association between the incident and the provider. It includes all incidents that have occurred (or are suspected to have occurred) during the course of providing care and services or due to the provision (or lack thereof) of care and services. Providers can also review the guidance already available for reporting in the residential care program to start to understand the new requirements.
7. What are the obligations of in-home care providers in relation to the following: • Clinical governance • SIRS • Restrictive Practices	The Aged Care Quality Standards require aged care services that provide clinical care to use a clinical governance framework (Standard 8, 3(e)). Further resources on clinical governance are available on the Commission website in our resource library: https://www.agedcarequality.gov.au/resources/clinical-governance.

	New governance responsibilities being introduced for approved providers (separate from the SIRS) require at least one member of governing bodies to have experience in the provision of clinical care, and also require the existence of a Quality Care Advisory Body. SIRS for home services will be similar to that for residential aged care. Home services providers are already required to maintain an incident management system. From 1 December 2022, they will also be required to report reportable incidents to the Commission. Providers will report in the same way that residential providers do, through the My Aged Care Service and Support Portal. Once the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new responsibilities. The main difference between SIRS in residential care and home services will likely relate to the reporting of restrictive practices – given that the restrictive practice requirements in the Quality of Care Principles only apply to residential providers. Other reforms dealing with consent and restrictive practices apply directly to residential care providers and providers of short-term restorative care in a residential setting. They do not apply to in-home care providers.
8. Will the new SIRS requirements apply to Meals on Wheels services?	Yes, the expansion of SIRS applies to providers of CHSP services.

9. Will small organisations only providing one service type (CHSP transport) be required to implement the Serious Incident Response Scheme?	Yes, the expansion of SIRS applies to providers of CHSP services including providers of one service type.
10. When consumers do not have a package and want some help at home, we give them some names of private carers they can call. We check references and do a criminal check but have nothing to do with any services that are then negotiated and provided. What responsibilities do we have regarding risk?	The SIRS does not apply to non-Commonwealth funded aged care services. The exception would be if an organisation is brokering or sub-contracting a service on behalf of a Commonwealth-funded aged care service. In this instance, the Commonwealth-funded provider should make appropriate arrangements with the sub-contracted provider to ensure that the requirements of SIRS are met in the delivery of that care or service.
11. What protections will be in place for employees who do not have consent from the consumer to report a serious incident but do so anyway?	SIRS for home services will be similar to that for residential aged care. Provider responsibility to notify reportable incidents to the Commission applies regardless of whether the consumer and/or their representative or family seek to have the incident reported. The law provides protections for staff of approved providers who report suspicions or allegations of reportable incidents in good faith. Disclosure of information must meet certain requirements in order to attract the protections afforded to a reportable incident notification. Providers and employees can review the guidance already available for reporting in the residential care program to start to understand the new requirements.

12. How will SIRS be benchmarked/ measured? Will the data be compared with SIRS data for residential aged care providers, or will it be compared with other home services?	The Commission publishes a range of sector performance data (including SIRS data), primarily through quarterly and annual Sector Performance Reports. Once the subordinate legislation is settled, decisions will be taken about how SIRS data for home services will be measured and reported.
13. Considering the time it takes RNs in residential aged care to complete all the assessments and documentation as per the guidelines, has the SIRS process been tested in real settings, ie. Have you actually trialled completing the assessments in a real facility and observed? (for example, time it takes to care for the resident, and report either a "witnessed or unwitnessed fall")	The Commission appreciates that managing serious incidents (and reporting them to the Commission) takes staff time. However, serious incidents place consumers at risk. The purpose of SIRS is to reduce the risk of abuse and neglect of older Australians in aged care services. A provider's identification and management of serious incidents is critical to their effective governance. This work will enable providers to manage risks to consumers and improve the quality of care and services they provide. By systematically recording and investigating incidents, providers are better placed to respond to an incident, make changes to prevent any recurrence, and continuously improve services. In notifying the Commission of reportable incidents, providers enable the Commission to assess and respond to risk at a service level, as well as to identify and act on opportunities for education and improvement across the sector. Providers are expected to ensure that undertaking critical safety and regulatory compliance tasks like this do not take away from other important care delivery tasks.

Incident types

14. Can you provide examples of the types of incidents that would apply under SIRS?	As soon as the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new responsibilities.
15. Will the 8 Incident types and definitions currently being applied to residential services remain the same for in-home care programmes?	Additional detail of the reporting categories will be in the subordinate legislation, which the Department of Health and Aged Care will release as soon as possible for public consultation.
16. Will the Priority 1 and 2 approach to SIRS reporting be used and if so, will the definitions currently being used for residential services remain the same?	The Priority categories relate to timeframes for notifying the Commission of reportable incidents. Details about these timeframes will be in the subordinate legislation. The Department of Health and Aged Care will release this as soon as possible for public consultation.

Education, training and resources

17. Can you please provide a timeframe for when educational information will be available to support the implementation of SIRS in home services?	SIRS for home services will be similar to that for residential aged care. Home services providers are already required to maintain an incident management system (under Standard 8 of the Quality Standards) and from 1 December, will have to report reportable incidents to the Commission. Once the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new SIRS reporting responsibilities. Following release of the detailed guidance, a range of educational information focused on specific topics is planned for staged release – ahead of 1 December - to support the implementation of SIRS for home services. Detailed information related to incident management systems is already available on the

	Commission website. These include the *What is an effective incident management system?* factsheet and the comprehensive *Effective incident management systems: Best practice guidance* resource.
18. Will there be a separate decision-making tool to support SIRS reporting in home services?	Once the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new SIRS reporting responsibilities. Following release of that detailed guidance, a range of educational information focused on specific topics is also planned for staged release – ahead of 1 December - to support the implementation of SIRS for home services. The existing decision support tool created to support residential services with their SIRS reporting decisions will be reviewed and revised if required to ensure that it is fit-for-purpose for home services.
19. What training will be provided by the Commission for CHSP providers on SIRS reporting? Will this be online or face-to-face?	Once the subordinate legislation is settled, we will release detailed guidance for home services providers to help them to understand their new SIRS reporting responsibilities. Please also refer to the scheduled webinars we are hosting on SIRS which are detailed on the aged care reforms web page. SIRS for home services will be similar to that for residential aged care. Providers will report in the same way that residential providers do, through the My Aged Care Service and Support Portal. Providers can review the existing guidance for SIRS reporting in the residential care program to start to understand the new requirements. The Department of Health and Aged Care operates the My Aged Care website, and has previously published a quick reference guide to accessing and using the Portal for SIRS reporting:

	https://www.health.gov.au/resources/publications/quick-reference-guide-how-to-access-and-use-the-serious-incident-response-scheme-sirs-portal

Code of Conduct for Aged Care

Stay up to date with the latest information on the Code of Conduct for Aged Care on the Commission's aged care reform web page.

An exposure draft of the of the Aged Care Quality and Safety Commission Amendment (Code of Conduct and Banning Orders) Rules 2022 is available on the Department of Health and Aged Care's website, we have released draft guidance for providers which will be finalised once the subordinate legislation is settled.

Scope and application

20. Why does the code not apply to CHSP providers, particularly given the planned transition to Support at Home? Will it apply after June 2024? Also, many providers provide both CHSP and HCP services.	The Code of Conduct responsibilities introduced under the Aged Care Act 1997 do not apply to service providers of CHSP and NATSIFACP or their workforce from 1 December 2022 because the responsibilities under the Aged Care Act apply to approved providers. CHSP and NATSIFACP service providers are not approved providers under the Aged Care Act. It is expected that provisions similar to the Code of Conduct will be extended to all Commonwealth-funded aged care services as part of the planned introduction of a new aged care Act.
21. Is there a new code for clients? Will there be a mandatory training module for workers?	The Code of Conduct applies to approved providers, governing persons and aged care workers, not to consumers of aged care. Approved providers will be required to take reasonable steps to ensure that their aged care workers and governing persons comply with the Code of Conduct.

	Mandatory training is not planned at this stage, given the Code of Conduct requirements are consistent with existing obligations that workers are already expected to meet.
22. If we have already had to comply with the disability code of conduct (as we work across both sectors), will this result in us already being compliant with the aged care code of conduct or will we be required to have all staff complete both? Does an aged care provider who is also an NDIS provider have to have in practice the two codes of conduct for both Aged Care and NDIS, or does one overarch the other as the police clearances have done?	The NDIS Code of Conduct and the Aged Care Code of Conduct are likely to be substantially the same, so that appropriate behaviour will be understood in a similar way in both aged care services and NDIS services. Once the Rules that sit under the Aged Care Act are settled, further detail will be released.
23. Do all staff have to sign the code of conduct?	There is no requirement in the legislation for staff to sign the Code of Conduct. Aged care providers may have different requirements for their staff. Providers may require their staff to sign off that they will comply with the Code as part of their employment relationship.
24. How can we check against the list of staff who have been barred from working in aged care?	A register of banning orders will be published by the Commission on our website once the Code commences.
25. Will workers named in previous mandatory reporting to the Commission as proven perpetrators of abuse against consumers be subjected to banning orders?	The Commission will consider information about compliance with the Code of Conduct from 1 December 2022 (when the provisions in the Act commence), and this information may be from a mandatory report. However, conduct prior to 1 December cannot be considered in this context as the Code was not in place.

26. Is there likely to be a requirement for worker training on the code (in NDIS this is a 90 minute training module)? Will this be mandated in aged care too? The NDIS worker orientation code of conduct compulsory training is very good. Has there been any discussion about creating something similar for the new Aged Care Code of Conduct?	Mandatory training is not planned at this stage, given that the Code of Conduct requirements are consistent with existing obligations that workers are already expected to meet. Detailed guidance for providers, workers and consumers to help understand the Code of Conduct will be released following the passing of subordinate legislation. Following publication of the guidance, a range of educational information, including an Alis module, videos and fact sheets are planned for staged release – ahead of 1 December 2022 - to support the implementation of the Code of Conduct. These resources will be available on the Commission's website.

Strengthening Provider governance

Stay up to date with the latest information on strengthening provider governance on the Commission's aged care reform web page.

Implementation and timeframes

27. Are there transition arrangements for Provider Governance requirements that come into effect in December 2022?	The Act provides application and transitional provisions for the provider governance reforms. The application provisions relate to: • Notifications of change of circumstances – 14 days to report commences from 1 December 2022. If the change occurred before 1 December 2022, the provider has 28 days to advise the Commission. • Responsibilities relating to governing bodies – applies from date of approval for providers approved on or after 1 December 2022, however existing providers have until 1 December 2023 to comply. • Responsibilities about giving information for a reporting period – the first reporting period will commence on 1 July 2023 and each 1 July

	thereafter. Information must be provided to the Secretary of the Department of Health and Aged Care by 30 October 2023 (in the first reporting period). The provision also allows that there may be variations to these timeframes in specific circumstances. • Responsibilities about the constitution of certain providers – this applies from the date of approval for those providers approved on or after 1 December 2022, or from 1 December 2023 for existing providers. • New applications for approval as person to provide aged care – from 1 December 2022, the Commission will base assessment of applicants against suitability matters not the disqualified individual test. There are transitional arrangements for pending applications for approval to become a provider of aged care. If an application was made prior to 1 December 2022, and the Commissioner has not made a decision before this date, the requirements in place prior to 1 December 2022 will apply. For further information, visit the Commission's webpage Provider governance and the Department of Health and Aged Care's reform page https://www.health.gov.au/initiatives-and-programs/aged-care-reforms/how-aged-care-will-change-for-you The Minister also has the capacity to make transitional provisions under the subordinate legislation, which is being drafted and will be subject to public exposure
28. What's the timing on setting up the various advisory boards/Board members in Home Care?	The timing is the same for all approved providers. For providers existing before 1 December 2022, the requirements commence on 1 December 2023. For providers approved on or after 1 December 2022, the requirements commence on approval.

29. Will there be a requirement to co-construct service delivery models and aged care facilities with consumers?	Consumers should be at the heart of the planning and design of any aged care service delivery. Providers are already expected to engage with their consumers in multiple ways – including seeking their involvement in decisions about the delivery of services and by encouraging feedback and complaints The Provider Governance reform builds on this and requires providers to make an annual offer to their consumers to establish a consumer advisory body that gives the provider feedback on the quality of care in the service. The provider has to take this feedback into account when making decisions about the quality of care provided. Further details about how these bodies might operate will be available in guidance being prepared for providers.
30. It is flagged in the amendment legislation that the Accountability Principles will be updated - this needs to occur before 1/12/22. Do you have any information on when this is likely to happen?	The amendments to subordinate legislation (including the Accountability Principles) will be made prior to the commencement of the provider governance reforms on 1 December 2022. We don't have a date for when these amendments will be registered.

Board composition

31.Can the Board member with clinical experience be an unregistered practitioner or do they have to be registered with AHPRA?	The legislation does not specify the particular clinical experience required by the Board member, or whether they must have professional registration. You will need to consider the particular clinical experience and qualifications that will best support the decision-making of your governing body in the context of the types of care and services that you provide. Where an individual has experience in the provision of clinical care but is not currently practising, you may wish to consider the currency and relevance of their experience (for example, the context in which they provided clinical care).

	For example, you may engage, depending on the types of care and services provided by your organisation, a retired Director of Nursing with experience overseeing an aged care or health care service. The member appointed with clinical experience must be able to contribute to discussions of the governing body and be capable of providing clinical expertise on key decisions and reports that impact care delivery to consumers.
32. How about Home Care businesses that are privately owned and do not have a board? Do they need to meet the new requirements relating to governing bodies?	The new governance requirements recognise that small approved providers may have small governing bodies which could make it more difficult to meet the new obligations. Organisations which have less than five governing body members AND deliver care to less than 40 consumers are exempt from this requirement. Approved providers that deliver care to 40 or more care recipients should ensure that there is independence and objectivity in executive decision making, and that their governing body has the relevant experience and expertise to be easily able to interpret reports about the delivery of care and see signs of potential problems with care delivery. Where providers are exempt from the requirement that at least one member has experience in the provision of clinical care, providers should ensure that they are able to seek clinical advice when needed – for example, external advice from a person experienced in providing clinical care.

33. Regarding clinical expertise for governing bodies, is the expertise required in aged care or can it be in any clinical area? Can we have more information on Clinical Governance for In Home Care type services please. How does this relate?	The legislation does not specify the particular clinical experience required by the Board member, or whether they must have professional registration. You will need to consider the particular clinical experience and qualifications that will best support the decision-making of your governing body in the context of the types of care and services that you provide. Where an individual has experience in the provision of clinical care but is not currently practising, you may wish to consider the currency and relevance of their experience (for example, the context in which they provided clinical care). For example, you may engage, depending on the types of care and services provided by your organisation, a retired Director of Nursing with experience overseeing an aged care or health care service. The member appointed with clinical experience must be able to contribute to discussions of the governing body and be capable of providing clinical expertise on key decisions and reports that impact care delivery to consumers. The requirement applies to providers of home care and they should follow this advice to assist in selecting an appropriate person to be part of their governing body.
34. Do we have a more precise definition of what exactly is independent for board members? In the context of church based not-for-profit organisations, will directors be "independent" if they are appointed by the church and/or have formal roles with the church?	The legislation does not specify who qualifies as an independent non-executive member. The Commission considers that an independent non-executive member is a person who: • does not hold another position in the organisation – for example, isn't a member of the executive team • isn't able to be influenced by their connection to the organisation

	• doesn't have a conflict of interest and is able to act objectively and independently in the best interests of consumers. You should consider engaging someone who is aware of your organisation and can contribute to its governance, and who can also take a role in holding management to account by objectively analysing information provided and asking searching questions about the rationale for particular decisions and actions.
35. Do we require a clinical person on our management committee if we only provide Social Support?	The requirement to have a member of a governing body with experience in the provision of clinical care applies to providers of home care. If you are an approved provider of home care and deliver social support services, the requirement would still apply. However if you are a Commonwealth Home Support Program provider, this requirement does not apply.
36. How can Regional/Local Councils comply with these Board membership requirements? How do Counsellors fit into the new governance framework regarding having aged care experience and clinical knowledge?	The requirements relating to governing bodies do not apply to organisations which are a State or Territory approved provider, including a State or Territory authority, or a local government authority. Such providers should ensure that there is independence and objectivity in executive decision making, and that their governing body has the relevant experience and expertise to be easily able to interpret reports about the delivery of care and see signs of potential problems with care delivery. Governing bodies may seek external advice or seek feedback through the quality care advisory body or directly from care recipients. Similarly, where a provider is exempt from the requirement to ensure that at least one member of the governing body has experience in the provision of clinical care, providers can support their governing body's effective functioning through other means.

	For example, you may engage, depending on the types of care and services provided by your organisation, a retired Director of Nursing with experience overseeing an aged care or health care service.
37. Will the requirements for a consumer advisory committee apply to both residential and home care?	Yes, these requirements apply to all providers approved under the Aged Care Act, including providers of residential, home and/or flexible care. The specific requirement in relation to consumer advisory bodies is that the approved provider must offer, at least once every 12 months, care recipients and their representatives the opportunity to establish one or more consumer advisory bodies to give feedback to the governing body of the provider about the quality of its aged care services. Further, the governing body will be required to consider any feedback received and to provide written advice about how it took it into account in making decisions about the quality and safety of services.
38. Does a Board Member need to be a registered Company Director?	No. The legislation does not specify who qualifies as an independent non-executive member for the purpose of this responsibility. However, an independent non-executive member is taken to be: • a person who does not hold another position in the organisation (i.e. is not otherwise a member of the executive team), • is not able to be influenced by their connection to the organisation, • does not have a conflict of interest and, • is able to act objectively and independently in the best interests of consumers.

39. Is this executive position needed for the Aboriginal Councils?	Aboriginal Community Controlled Organisations and organisations which have less than five governing body members AND deliver care to less than 40 consumers are exempt from this requirement. Other providers that do not automatically fit into one of these categories, may seek an exemption from the Aged Care Quality and Safety Commission. Instructions on how to do this will be made available on the Commission's website. When considering an exemption, the Commission can take into account matters like: ○ the number of services the provider has ○ the number of care recipients ○ the location of the services ○ the membership of the governing body
40. Can a previous employee become a non-executive Board member?	The legislation does not specify who qualifies as an independent non-executive member. The Commission considers that an independent non-executive member is a person who: • does not hold another position in the organisation – for example, isn't a member of the executive team • isn't able to be influenced by their connection to the organisation • doesn't have a conflict of interest and is able to act objectively and independently in the best interests of consumers. You should consider engaging someone who is aware of your organisation and can contribute to its governance, and who can also take a role in holding

	management to account by objectively analysing information provided and asking searching questions about the rationale for particular decisions and actions.
41. We are an outdoor home maintenance CHSP service provider (gardening). Will we need a clinical person on our board?	CHSP providers do not have to meet these governance requirements. The requirements apply to providers approved under the Aged Care Act providing residential, home and flexible care.
42. We already have a Board subcommittee that reviews and has oversight of care governance, and membership is comprised of a care governance expert and a medical doctor. How does the new Quality Advisory body differ from our current arrangement?	It is positive that some providers already have existing bodies in place to help ensure the delivery of quality care within their services. There is no expectation that providers need to replace these bodies. Rather, you need to ensure that the bodies meet the requirements of the legislation, including the Accountability Principles when available, and make any adjustments as needed. The new legislative requirements include that the quality care advisory body must: • meet at least once every 6 months and give the governing body a written report about the quality of the aged care provided through an aged care service • ensure written reports comply with the requirements in the Accountability Principles (requirements currently being drafted) • be able, at any time, to give feedback to the governing body about the quality of the aged care you provide through an aged care service. The quality care advisory body may request information from the approved provider about the quality of the aged care that you provide, and you must comply with any such request. For example, the quality care advisory body may request details of feedback and complaints by consumers, their

	representatives, staff and others about the quality of aged care delivered at the service, or any regulatory action taken by the Commission. The governing body must: • consider reports or any feedback from the quality care advisory body when making decisions in relation to the quality of aged care provided through an aged care service, and; • advise the quality care advisory body in writing how it considered reports or feedback in its decision-making.
43. What are the expectations regarding qualifications held by board members, committees, chairs etc, in particular for private family RACFs business e.g. Governance Institute of Management - Board Governance credential or other??	While the legislation does not specify qualifications or experience required for these positions (except for the requirement to have a member with experience of clinical care), the Commission's expectation is that providers should consider the particular experience and qualifications that will best support the decision-making of your governing body in the context of the types of care and services that you provide. It is also the Commission's expectation that providers should ensure there is independence and objectivity in executive decision making, and that its governing body, committees, chairs etc, have the relevant experience and expertise to be easily able to interpret reports and other information to make the best decisions to provide safe and high-quality care and services.

Advisory bodies

44. Are board directors to be on the consumer advisory committee or is there a suggestion as to who should be on this advisory committee?	There is no specified size or constitution for a consumer advisory body. It can be as big or as small as the consumer interest within your organisation. Ideally, the advisory body should comprise a majority of current consumers, with

	representation from across the different types of aged care services your organisation provides. The consumer advisory body is essentially for consumers and their representatives to provide structured feedback to the board. As such, it is not appropriate for a member of the governing board to be a member of the consumer advisory board. Staff from the provider can attend meetings of the consumer advisory body (by agreement or invitation) to support the members in fulfilling the advisory body's role.
45. Who should be included in the consumer advisory body?	The consumer advisory body must be composed of consumers and their representatives.
46. Can a Board member also be a member of a Quality Advisory Body (Committee)?	The Accountability Principles will include details about the membership of the Quality Advisory Body. This new information is part of the package of subordinate legislative amendments being developed by the Department of Health and Aged Care. Once details about the requirements are available, the Commission will update and release guidance.
47. Is it a consumer advisory body for each service or each provider?	The approved provider must offer, at least once every 12 months, care recipients and their representatives the opportunity to establish **one or more** consumer advisory bodies to give feedback to the governing body of the provider about the quality of its aged care services. For example, a large residential aged care provider operating multiple services may find that there is sufficient interest from consumers and their representatives to establish a consumer advisory body for each of its residential services. However, for a small provider with a single service, it would make sense to establish a single consumer advisory body if the consumers and representatives wanted one.

48. Will having a consumer representative as a member of our Quality and Risk Committee be sufficient to meet the Consumer Advisory Body requirements?	No, providers will be required to establish a quality advisory body (the membership requirements of which will be detailed in subordinate legislation when available), and to offer to establish a consumer advisory body or bodies for consumers and their representatives.
49. Would monthly consumer meetings with the executive/board to gauge opinions and obtain comments and complaints be a substitute for a consumer advisory body having a yearly meeting?	Providers are required, to offer to establish a consumer advisory body at least annually. This does not mean that it would only meet annually, but that it would be offered at least annually to ensure consumers continue to be aware of their right to establish such a body, even if at a point in time, they choose not to establish it. The legislation does not specify how regularly the advisory bodies should meet, but providers must ensure that whatever arrangements are put in place enable the bodies to adequately perform their respective roles.
50. What are the membership requirements for the Quality Care Advisory Body in line with the Accountability Principles?	The Accountability Principles will include details about the membership of the Quality Care Advisory Body. This new information is part of the package of subordinate legislative amendments being developed by the Department of Health and Aged Care. Once details about the requirements are available, the Commission will update and release guidance.

Material changes

51. At the moment, to make a change of key personnel through the Material Change process is very difficult and time consuming. Collecting the information takes a long time. Communication with Commission is poor, e.g. getting information and feedback through doesn't happen quickly, which means that making a change takes months. The new legislation will add many more people to this process. How is the Commission going to ensure that this process is easy, as it is currently taking up a lot of time? Is there a portal or on-line form that allows the	The Commission acknowledges that there has been a backlog in the processing of Notifications of Material Changes. Additional staff are being recruited and we are improving our processes to shorten the turnaround time. The Commission is also working with the Department of Health and Aged Care to build an online process to make it easier for Approved Providers to submit notifications of material changes, making the process more efficient for both providers and the Commission.

key personnel to register and upload their information and make changes to this information?	This work has included a consultation process with Approved Providers led by the Department of Health and Aged Care. While it is understood that the upcoming legislative changes will affect the volume and types of notifications, the Commission is working to ensure that the new online system is streamlined and easy to use.
52. Who is defined as "Key Personnel"	"Key personnel" is defined under section 8B of the Aged Care Quality and Safety Commission Act as: (1) Each of the following is one of the key personnel of a person or body (the entity) at a particular time: (a) if the entity is not a State or Territory—a member of the group of persons who is responsible for the executive decisions of the entity at that time; (b) if the entity is not a State or Territory—any other person who has authority or responsibility for, or significant influence over, planning, directing or controlling the activities of the entity at that time; (c) if, at that time, the entity conducts an aged care service: (i) any person who is responsible for the nursing services provided by the service and who holds a recognised qualification in nursing; and (ii) any person who is responsible for the day-to-day operations of the service; whether or not the person is employed by the entity; (d) if, at that time, the entity proposes to conduct an aged care service: (i) any person who is likely to be responsible for the nursing services to be provided by the service and who holds a recognised qualification in nursing; and

	(ii) any person who is likely to be responsible for the day-to-day operations of the service; whether or not the person is employed by the entity (2) Without limiting paragraph (1)(a), a reference in that paragraph to a member of the group of persons who is responsible for the executive decisions of an entity includes: (a) if the entity is a body corporate that is incorporated, or taken to be incorporated, under the Corporations Act 2001—a director of the body corporate for the purposes of that Act; and (b) in any other case—a member of the entity's governing body Key personnel play a critical role in supporting the organisation and the delivery of safe and quality care and services. Key personnel are people who: • are responsible for the executive decisions of the provider, or • have authority or responsibility for, or significant influence over, planning, directing, or controlling the activities of the provider • are responsible for the nursing services provided by the aged care service and hold a recognised qualification in nursing, or • are responsible for the day-to-day operations of the aged care service. These people likely include, but are not limited to, the Director of Nursing, Chief Executive Officer, Service Managers, each of the governing body members, Operations Manager, Clinical Coordinator and any other staff in management or leadership roles. It is expected that you will exercise due diligence in gathering information about the ongoing suitability of each of your key personnel.

53. Regarding Material Change of Key Personnel – the notification period is currently 28 days. Has this now changed to annually? And how do we define 'key' Personnel - are Care Managers in this?	From 1 December 2022, providers are required to report material changes relating to themselves, and their key personnel **within 14 days** of the change occurring. In addition, providers are required to assess the suitability of their key personnel **at least annually** against the suitability matters outlined in the legislation, keeping records of this assessment, including any information used in this assessment. Further information about this will be provided in more detailed guidance to providers. Please refer to the response to Q.52 regarding 'key' personnel.
54. Will providers be required to include as key personnel on the material change form: Brokered Key players or agreements where Care management is being outsourced?	It is difficult to answer the question specifically without knowing the scope and role that these personnel play in the approved provider's business operations and care and service delivery. Providers will need to form a view about whether personnel from brokered or subcontracted agencies meet the definition of key personnel. "Key personnel" is defined under section 8B of the Aged Care Quality and Safety Commission Act. See Q.52 for definitions.

Governing for Reform

Stay up to date with the latest information on the Governing for Reform program web page.

55. Is there an intention to expand the Governing for Reform education program beyond Executives and Board Members as this excludes lots of senior staff of providers who have operational responsibility for these areas from attendance who would otherwise benefit from the program too?	The Governing for Reform in Aged Care program specifically targets governing board members and executives to enhance organisational and clinical governance capability across the sector. At the same time, we have noted the wider interest in accessing this content, and we are currently considering other education programs and resources that would likely be valued by providers and aged care staff in supporting your successful implementation of aged care reforms.

Restrictive practices

Scope and implementation

56. Will home care providers be required to comply with the Restrictive Practices changes?	The behaviour support and restrictive practices requirements in the Quality of Care Principles relate to the use of restrictive practices in residential aged care and short-term restorative care in a residential setting. They do not apply to home care providers. This has implications for how the SIRS reporting category about the use of restrictive practices will apply in home care. Once the subordinate legislation is settled, we will release detailed guidance on this to home services providers.
57. The Act says that the restrictive practices changes come into effect on the day after the Act got Royal Assent ie 5 August. But the subordinate legislation is still under consultation. Can you clarify the actual commencement date of this provision, and other provisions which can't be implemented because the detail isn't finalised?	The additional consent provisions for the use of restrictive practices are in subordinate legislation (the Quality of Care Principles in the Aged Care Act), which will come into effect the day after the amending instrument is registered. Advice will be provided on this date as soon as it is known.
58. Please can you explain the restrictive practices substitute decision maker for NSW in light of restrictive practices, and especially chemical restraint.	Under the proposed amendment to the Quality of Care Principles, a hierarchy of persons or bodies are authorised to give informed consent to a restrictive practice for a person in residential aged care. This only applies if the resident cannot give informed consent themselves. Under the hierarchy, a restrictive practices decision maker could be an authority (State or Territory body), a nominee, a care recipient's partner, relative or friend, or medical treatment authority.

	Details of the proposed hierarchy are available as part of the exposure draft (ED) of subordinate legislation for the restrictive practice changes. The ED is available on the Department of Health and Aged Care's Consultation Hub here. • The NSW Civil and Administrative Tribunal has a factsheet on its website about substitute decision making and restrictive practices in NSW. Specific queries regarding arrangements in NSW should be directed to the NSW Civil and Administrative Tribunal. Information about state and territory public guardians and tribunals and provision of consent are available on the Commission website on the Restrictive practices provider resources page. The Commission is in the process of developing communications to assist providers to understand and apply the substitute decision maker hierarchy. These will be published on the Commission's website as soon as possible.
59. Will behaviour support plans expand into home care around restrictive practices?	The behaviour support and restrictive practices requirements in the Quality of Care Principles, which include the requirements for behaviour support plans, relate to the use of restrictive practices in residential aged care and short-term restorative care in a residential setting. They do not apply to home care providers, and there are no current plans in this regard.

All reforms

60. Is there any difference in terms of implementation and compliance with aged care reform between HCP and CHSP?	The only reform in the Royal Commission Response Act 2022 that applies to both HCP and CHSP is the extension of the SIRS to home services providers. The new SIRS requirements applying to HCP and CHSP services are the same. Enforcement actions will depend on whether the provider is an approved

	provider under the Aged Care Act or a service provider under a funding agreement with the Commonwealth (i.e. CHSP and NATSIFACP providers). Other than SIRs in home services, no other reform measures under the Royal Commission Response Act apply to CHSP.
61. How will the reforms differ between Home Care and Residential Care from a regulatory perspective?	Where the reforms apply to both home care and residential providers, there are no differences from a regulatory perspective (the Commission will regulate providers in the same way).
62. As CHSP providers, should we attend the forthcoming webinars to prepare for the future?	While the full impact of the Support at Home Program reform on CHSP providers is not yet known, it would be sensible for CHSP providers to gain an understanding of reforms affecting approved providers of home care.
63. Do these reforms apply to current CHSP providers now or only once the new Support at Home system comes in? Please confirm which of the amendments to the Act affect CHSP providers and when? CHSP is not currently under the Aged Care Act.	Of all the reforms in the Royal Commission Response Act, only the extension of the SIRS to home services providers impacts CHSP providers. Once the Support at Home reforms and the new Aged Care Act are finalised, it will be clear which responsibilities under the new Aged Care Act apply to which providers.
64. What role does the Commission play in addressing the current workforce shortage challenges we are all facing? Care minute targets are a fantastic step forward, however in reality are placing more stress on services who just cannot recruit staff and are fearful of being non-compliant.	As the national regulator, the Commission doesn't have a role in addressing issues relating to workforce supply, although we make sure we keep up to date with these important issues as part of our role in monitoring of systemic risks. Through our risk-based regulatory work, the Commission engages with individual providers to monitor and assess their management of workforce pressures, including looking at whether the provider has appropriate systems and plans in place to identify those consumers most at risk of harm and to ensure prioritisation of their care needs. Where we take compliance action, it will be proportionate to the level of assessed risk to consumers.
	Please refer to the section on SIRS in home services.

65. The service I represent will be moving out of physical care services delivery at the end of this year. It will continue to provide services around meal delivery, transport services and day club services. Will the reforms, particularly SIRS, apply to those services? No physical in-home care or domestic services will be provided.	
66. Please provide the dates for the upcoming reform webinars, and where can we access the recording and FAQs of webinars?	Details on the upcoming reform webinars are available at https://www.agedcarequality.gov.au/news-centre/national-aged-care-reforms. Links to webinar recordings and FAQs will be published on this page.
67. Is it possible to have a table/timeline of actions that providers need to take and by when? This would be really helpful to have what we need to action in a single document.	Please refer to the Aged care reforms - an overview fact sheet which includes information on expected timelines and actions that providers can and should start to take now. The Commission will update providers as resources become available, including checklists and guidance resources.
68. Can links be sent for the information documents that have been mentioned?	For fact sheets and other resources on the aged care reforms, please visit https://www.agedcarequality.gov.au/news-centre/national-aged-care-reforms.
69. Would there be resources regarding the reform in languages other than English?	The Commission will publish select resources in languages other than English. These resources will be promoted to the sector as they become available.
70. When will downloadable resources be available to support all these reforms?	Please refer to the https://www.agedcarequality.gov.au/news-centre/national-aged-care-reforms page our website. Fact sheets are available providing information on the reforms, and resources will be linked from this page as they become available.

71. Thinking about workforce shortages and the people who might apply for aged care jobs - will these reform resources be made accessible to RTO's to assist in preparing students for changes in the sector during their studies, increasing their awareness and knowledge prior to employment?	RTOs are free to access all the resources that are published for the sector. Please refer to the https://www.agedcarequality.gov.au/news-centre/national-aged-care-reforms page on our website. Fact sheets are available providing information on the reforms, and resources will be linked from this page as they become available.
72. I hope the Commission will clarify what assistive technology can be included in Home care packages, and how to certify that the AT is reasonable and necessary for the consumer?	Refer to Department of Health and Aged Care's website at https://www.health.gov.au/resources/publications/home-care-packages-program-operational-manual-a-guide-for-home-care-providers
73. What is the Commission doing to support the requirements of providers? Are Doctors being regulated or advised of their responsibility to relation to the processes that they will need to undertake in regard to Psychotropic medications and Antimicrobial Stewardship? Our clinicians are spending most of their time following up on doctors. Some have even experienced retaliation from Doctors who feel nurses are telling them how to do their jobs.	The Commission does not regulate doctors, but we are taking a range of steps to increase their awareness of the Aged Care Quality Standards and provider obligations. This includes: • responding to individual questions from prescribers (usually GPs) • liaising with Australian Commission on Safety and Quality in Health Care in developing guidelines for medical staff for behaviour management and restrictive practices in acute settings • offering education for GPs during pharmacy outreach visits • having education focussed discussions with many individual GPs and Nurse practitioners • delivering education sessions to groups of prescribers, training bodies or specialist bodies in matters of polypharmacy, deprescribing, psychotropics and drug burden. • Having input into other agencies' communication and resources for practitioners We also work to empower consumers to: • take more control over their own medication management • question providers and engage in meaningful informed consent

	To support this, we commissioned and assisted the Older Person's Advocacy Network to develop: • a 'medication it's your choice' video and printed resources • a brochure on antibiotics All these resources are placed in doctors' surgeries and on waiting room videos. We also engage with the Australian Health Practitioner Regulation Authority to discuss issues and to report practitioners as appropriate for possible poor practice where consumers are placed at risk.
74. Can you please clarify how AN-ACC framework funding supports Home Care providers with extra costs of the new requirements? Can you tell us how home care will receive extra funding given that AN-ACC is only for RAC? How is the upcoming AN-ACC funding tool to ensure providing sufficient resources for the nursing homes to provide required high standard care? Staff are working very hard from the direct care provider to the top management. What support will be provided to facilities where the AN-ACC funding is less than the ACFI amounts?	The Commission has no direct responsibility or involvement in the development or implementation of AN-ACC. The following information is offered as general guidance to resources published by the Department of Health and Aged Care. AN-ACC applies to residential aged care only. From 1 October 2022, the Government will deliver a funding boost over three years (and then ongoing) to enable residential aged care providers to increase staffing levels to meet the new care minute standards. Visit https://www.health.gov.au/sites/default/files/documents/2022/08/what-are-care-minutes.pdf for more information. The AN-ACC Transition Fund will ensure that residential aged care providers can adjust their business operations and transition smoothly from the ACFI to the AN-ACC and help providers continue delivering services to residents without impacting their funding. It is not grand-parenting of the existing ACFI funding model. Further information on the Transition Funds and eligibility can found via the link below:

	https://www.health.gov.au/resources/publications/what-is-the-an-acc-transition-fund Please refer to the Department of Health and Aged Care's AN-ACC Transition Support Plan for further resources and support available to providers here https://www.health.gov.au/resources/publications/an-acc-transition-support-plan AN-ACC Funding Helpdesk: A specialised helpdesk is available to help providers understand and estimate the funding level and care minute targets for their facility, including answering questions providers may have. The AN-ACC Helpdesk operates between 9:30 – 16:30 Monday – Friday. Providers can contact the helpdesk: By email: ANACCfundinghelp@health.gov.au By phone: 02 4406 6002 The Department also has extensive information and resource material available to further understand AN-ACC. Refer to link below: https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/residential-aged-care-funding-reform/the-an-acc-care-funding-model The Department held an AN-ACC webinar on 30 August 2022. This webinar provides the aged care sector with the latest information on the Australian National Aged Care Classification (AN-ACC) funding model, to help with preparation and transition activities in the lead up to commencement of AN-ACC on 1 October 2022. Refer to link below to the webinar and supporting reference material: https://www.health.gov.au/resources/webinars/australian-national-aged-care-classification-an-acc-update The Australian Government has recently indicated that July 2024 is the planned timing for commencement of reforms to in-home aged care. The Department of Health and Aged Care will use the time between now and then to work with

	older Australians, their families and carers, workers, advocates and providers to ensure that reforms achieve a better in-home aged care system. The Department will release more information soon on how you can participate in consultations. In the meantime, no one will lose any in-home aged care services they currently have in place through the Commonwealth Home Support Programme or the Home Care Packages Program. Read more here https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/reforming-in-home-aged-care A webinar was held on 31 August 2022 to give older Australians, their families and carers, and the aged care sector an update on the reforms. The update included progress on a new Aged Care Act and regulatory arrangements. Refer to link below: https://www.health.gov.au/resources/webinars/reforming-in-home-aged-care-and-regulation-update-31-august-2022
75. Why are Enrolled Nurses not included in the nursing minutes? We have a number of very experienced Enrolled Nurses in the sector with a lot more knowledge and experience than RN's with less than 5 years' experience. It seems counterproductive to lose this resource?	Care minutes include registered nurse, enrolled nurse and personal care worker time. From 1 October 2022, additional funding will be provided to help residential aged care providers deliver a sector wide average of 200 minutes (including 40 minutes of registered nurse time). From 1 October 2023, this will become mandatory. From 1 October 2024, the mandatory care minutes standard will increase to an average case-mix adjusted 215 minutes, including 44 minutes of a registered nurse time. This time frame will allow the workforce to increase gradually and the sector to prepare ahead of these new arrangements. The 215 and 44 minutes requirements are an 'on average' target across the sector. In practice,

	each facility will have its own care time target prescribed depending on the AN-ACC case-mix of residents in that facility. Please refer to this information sheet from the Department of Health and Aged Care for more information.
76. Regarding Schedule 6 Information Sharing - what are the implications for providers regarding the NSW PPIPA, HRIPPA and Commonwealth Privacy Act? Do these changes provide protection from allegations of breach of confidentiality?	The amendments in Schedule 6 relate to the way the Commission and the Department of Health and Aged Care can share information with other agencies. The amendments primarily facilitate greater information sharing between Commonwealth bodies across the aged care, disability and veterans' affairs sectors The provision does not affect regulators' powers to seek information from providers and any information sharing must continue to be compliant with the requirements of the Privacy Act.