

Compliance in practice webinar Q&As

This document responds to participant questions at the webinar held on 18 July 2023. The information provided is current as at 2 August 2023.

Question	Response
<p>Requirements</p> <p>Under the new regulatory model, if an organisation provides services across all registration categories, do staffing requirements apply equally regardless of the work they do?</p>	<p>The new regulatory model proposes that the strengthened Quality Standards will be applied flexibly across the different service categories, where aged care providers would apply to be registered against a certain registration category (or categories).</p> <p>All providers will be responsible for meeting obligations attached to their conditions of registration, including staffing requirements. Once registered, providers across all registration categories will be monitored by the Commission.</p> <p>Where a provider is seeking registration across all or multiple registration categories an audit would be conducted for each service/site through which the categories apply to the services delivered.</p> <p>Requirements remain regarding appropriate skill set and scope of practice for aged care staff to provide safe and quality aged care services and supports.</p> <p>Information on 24/7 registered nurse responsibility is available on the Department of Health and Aged Care website here and the Aged Care Quality and Safety Commission website here.</p>
<p>What credentials are you expecting for staff working in category 4 for Clinical support? It implies Nursing and Allied Health, and are you expecting those credentials for Personal Care Assistants?</p>	<p>The types of services proposed to fall within category 4 are outlined in the Department of Health and Aged Care's consultation paper 2 – table 1. The qualifications and professional registration required will relate to the profession of the individual (e.g. nursing, allied health).</p>

<p>You mentioned "External assistance" - where are they sourced from? Do the aged care providers source them or do you (as in the government) have a list of accredited people?</p>	<p>Providers are responsible for engaging advisors that are adequately skilled and qualified to assist the provider to remediate identified non-compliance. For more information see the Commission's fact sheet on appointing an advisor: https://www.agedcarequality.gov.au/sites/default/files/media/fact-sheet-appointing-advisor.pdf</p> <p>Our Compliance Team, when engaging with providers, will be able to link them with relevant areas of the Commission to provide support and assistance. This can include regarding providers' incident reporting responsibilities and compliance with restrictive practice requirements.</p> <p>The Commission has a range of resources available to support providers on its website: https://www.agedcarequality.gov.au/providers</p>
<p>What do service providers consider the most challenging compliance requirement and why?</p>	<p>Our data and analysis show that home care providers find most challenging the exclusion/inclusion framework of the Home Care Packages program and the requirements of Standard 8, specifically in relation to having adequate governance over care and services delivered by subcontractors.</p> <p>The root cause for compliance issues is almost always a lack of appropriate governance.</p> <p>In terms of the exclusion/inclusion framework, some providers have told us they find it hard to determine those "grey area items" and some providers tell us they find it hard to say "no" to people they provide care to.</p> <p>When a provider enters into an arrangement with a third party to deliver care and/or services, it is the provider who is ultimately accountable for the delivery of safe and quality care and services.</p> <p>In June 2022 the Commission published a resource for providers called 'Quality and Safety in Home Services – 5 Key Areas of Risk' which outlines the current areas of risk in home care.</p> <p>For aged care more broadly, the Sector performance report delivers valuable insights that help providers understand sector-wide performance over the quarter and identify their own key areas for improvement, including issues relating to compliance. This report has been expanded to include new sections on Worker Regulation and Code of Conduct, Infection Prevention and Control, and Financial and Prudential Standards.</p>

<p>What are the current most frequently identified compliance issues in Aged Care? And what solutions do you best recommend to remedy these issues?</p>	<p>First and foremost, our Compliance Teams focus on issues that we consider high risk, severe and immediate risk to aged care recipients. With this in mind, we look at a range of intelligence across Quality Standards, Serious Incident Reporting, complaints and any compliance history in forming a view about the level of risk and actions we take.</p> <p>Importantly, our focus is on strong governance and sustainability</p> <p>The Sector performance report delivers valuable insights that help providers understand sector-wide performance over the quarter and identify their own key areas for improvement, including issues relating to compliance. This report has been expanded to include new sections on Worker Regulation and Code of Conduct, Infection Prevention and Control and Financial and Prudential Standards.</p> <p>The Commission resource library has information available to assist providers to remedy non-compliance issues, as does the suite of online learning modules.</p>
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Process

<p>Is there the same approach when assessing compliance or need for regulatory action for both aged care providers and home care providers?</p>	<p>The Commission’s compliance approach is the same for both residential and home care.</p> <p>Effective enforcement of aged care provider responsibilities under the <i>Aged Care Act 1997</i> and its related Principles, the <i>Aged Care Quality and Safety Commission Act 2018</i>, the <i>Aged Care Quality and Safety Commission Rules 2018</i> or under its funding agreement with the Australian Government is a critical task for the Commission.</p> <p>The Commission’s Compliance and Enforcement Policy details the our approach to compliance and enforcement as part of the our strategic campaign activities. These seek to address sector-wide risks, shape market behaviour through deterrence and clearly establish where the boundaries of acceptable behaviour lie within the law.</p>
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<p>When a client complains to the Commission and the Commission then advises the complaint is closed after investigation, is the provider able to request the information from the investigation and why it was closed? Sometimes we are not provided with any findings and only</p>	<p>Providers are routinely provided with information on the outcome of individual complaints which proceed through a formal resolution process with the Commission. In cases where we finalise through our more informal, early resolution processes, this is not always the case. However, providers are always able to contact the Complaints Officer or our staff to seek information which we would be happy to provide.</p>
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<p>that the complaint is now closed.</p>	
<p>Would providers ever be financially penalised for continued non-compliance? e.g, a fine, made to close down?</p>	<p>The Commission uses a proportionate, risk-based approach to achieving its regulatory objectives that takes into account the risk of harm to consumers because of specific behaviour or non-compliance, and our trust in the provider's capacity or willingness to manage the risk of harm without a direct intervention.</p> <p>In the instance where there is continued non-compliance, we would consider a range of regulatory actions subject to the significance of the and history of non-compliance, the immediate or ongoing risk to residents, financial viability, and our trust in the provider to manage the risks moving forward.</p> <p>The Commission's Regulatory Bulletin 2019-06 - Regulatory decision-making outlines the principles and practices that form our framework for making decisions relating to its regulatory functions. Attachment A outlines the regulatory options available to the Commission, including the decision to revoke the provider's accreditation.</p> <p>Importantly, there will be no surprises, we will keep you informed of our actions. If our regulatory actions do not result in us being satisfied that you have addressed significant risks or where a provider's non-compliance is deliberate, we will consider a provider's suitability to provide care, especially where the provider's actions place consumers at risk of harm.</p>
<p>Can you explain the time frames that providers have to respond to genuine complaints please?</p>	<p>This will depend on the nature of the case and our assessment of the information already before us. We acknowledge the time it takes for providers to respond to our queries, and we try to balance that with the risk to people receiving care.</p>
<p>If a provider is found non-compliant in multiple standards and those non-compliances are consistent, i.e., happens over and over again, may I ask why was the provider given full accreditation when they were non-</p>	<p>A provider may be non-compliant with the Standards and suitable for reaccreditation concurrently. Depending on the individual circumstances, particularly the risk to residents, a service may receive a reduced term of reaccreditation and/or the Commission may apply an increased monitoring schedule. Additionally, where non-compliance represents a higher risk to people receiving care, the Commission may take a case management approach to remediation under a regulatory notice.</p>

compliant in 4 standards?	
If you apply the same audits and processes for PSRACS as you do in the Acute sector, would these audits pretty much satisfy the Standard 3 audits needed in Residential Aged Care?	<p>While components of audits conducted in the acute sector can be relevant in Residential Aged Care, there are additional complexities to be considered in the Residential Aged Care setting when conducting an audit including assessing clinical care Standards.</p> <p>A person-centred approach underpins and links all Standards assessed in Residential Aged Care and consideration needs to be given to all the needs of an older person including their clinical needs.</p> <p>Additional considerations include but are not limited to: length of time living in aged care, complexity and comorbidities, quality of life, emotional, social and psychological wellbeing, older persons preferences, rights and independence, hospital admissions and access to internal and external health professionals.</p>
What should happen when residents feel intimidated and afraid to complain and mistreatment or neglect?	<p>We would encourage those people to speak to us about the options of complaining anonymously or provider obligations with respect to people making complaints. We can also investigate confidentially in some cases if that's preferred.</p>
Process specific to home services	
Can you please clarify the notice periods before an audit for home services?	<p>The notice period for a Quality Audit in Home Services is 14 days.</p> <p>There is no specified notice period for an assessment contact, however, we aim to give notice between 24-48 hours. Where we have reason to believe there is actual or potential risk of harm to people receiving care, no notice will be provided.</p>
Can you please have a segment on compliance for home care packages, like examples of compliance with contractors etc?	<p>Thank you for your suggestion.</p> <p>Adequate governance and oversight over care and services delivered by third parties (subcontractors) are paramount to a provider's ability to identify deficiencies and continuously improve.</p> <p>Adequate governance and oversight ensure that people receiving care and services through subcontracted organisations are receiving those services, and that those services are delivered in line with the specifications outlined in their care and service plans.</p> <p>Maintaining oversight of subcontracted services also ensures that issues or complaints are resolved appropriately and in a timely manner. Failure to maintain oversight of care delivery can lead to gaps and breakdowns in the person's care.</p> <p>Ultimately it is the provider's responsibility to ensure that services are delivered in line with regulatory responsibilities and best practice.</p>

<p>Do you have any further information available on quality indicators for in home services?</p>	<p>The development of the National Aged Care Quality Indicator Program expansion is led by the Department of Health and Aged Care.</p> <p>Please refer to the website for further information.</p>
<p>Is there any impact of this governance reporting on Home Care financial reporting?</p>	<p>Unfortunately, without the context of this query we are unable to provide a response. Please email your question with further context to agedcarereform@agedcarequality.gov.au</p>