



# Key changes for providers from 1 January 2020: Aged Care Quality and Safety Commission Rules

## From 1 January 2020, the Aged Care Quality and Safety Commission Rules 2018 (Commission Rules) have changed.

The aged care regulatory functions of the Secretary of the Department of Health have been transferred to the Aged Care Quality and Safety Commissioner (the Commissioner), establishing a new regulatory framework for the Commission. This ensures that the Commissioner has the full suite of regulatory functions from entry, quality monitoring and compliance to exit (if required) for providers of aged care services.

Amendments to the Commission Rules have been implemented to support the transition of regulatory functions. The amendments focus on the following key outcomes:

- integrate and remove duplication in the management of non-compliance with the Aged Care Quality Standards (Quality Standards)
- establish a regulatory framework with graduated and escalating responses to non-compliance
- streamline existing performance assessment processes, providing greater clarity to consumers and transparency of decision making for providers.

### Who do the Commission Rules apply to?

- **Approved providers** of residential aged care services, home care services and short-term restorative care services.
- **Service providers** of Commonwealth-funded aged care services (this includes Commonwealth Home Support Programme and National Aboriginal and Torres Strait Islander Flexible Care Program (NATSIFACP) services).

### What are the changes from previous regulatory arrangements?

The key changes to the Commission Rules are outlined below. More detailed information and fact sheets on these changes will be progressively added to the [Commission's website](#).

## 1. Quality Assessment and Monitoring

### Assessment team and Commission reports

- Arrangements for reporting about performance assessments are now more consistent.
- New terminology has been implemented to delineate between the report developed by the Assessment Team and the final performance report developed by the Commissioner.
- Following a performance assessment, the assessment team will prepare either a **site audit report, review audit report, quality audit report or assessment contact report**. The report will outline the team's assessment of performance against the Quality Standards (Not Met/Met findings at the Standard and requirement level). The report will be given to the Commission and to the provider for a response.
- Within 28 days after the Commissioner is given a copy of the relevant report, the Commission prepares a '**performance report**'. The performance report will outline the delegate's decisions regarding compliance against the Quality Standards (Non-compliant/Compliant at the Standard and requirement level). The report may also include areas for improvement.
- From 1 January 2020, the performance report is published on the Commission website following a site audit or a review audit.
- From 1 July 2020, all performance reports developed following an assessment contact (performance assessment) or quality review will also be published on the Commission website.

### Quality Reviews of home services

- The terminology used to describe the process for assessing a home service provider's performance during a quality review has changed from 'site visit' to 'quality audit'.
- The quality audit process is more closely aligned to the process for site audits and review audits.
- At the completion of the quality audit, the Assessment Team develops a 'quality audit report' (previously termed an 'interim report').

### Assessment contacts

- Assessment contacts will be used to assess a provider's performance against the Quality Standards or to monitor the quality of care and services provided by a provider. This change more directly supports the Commissioner's monitoring regulatory functions.
- The Commission is now able to make assessment contacts with any provider of any service, including a previously accredited service. This change allows the Commission to monitor approved providers whose accreditation has been revoked but where they are still delivering care.

- For providers operating a residential service and a home service, a single assessment contact covering all those services may be conducted at the same time.
- The Commission may notify providers of arrangements for assessment contacts, but this is no longer a requirement under the Commission Rules.

## 2. Dealing with Non-Compliance

### Directions relating to areas for improvement and plans for continuous improvement

- The Commission Rules no longer require that providers are notified of a timetable for improvement (TFI) when areas for improvement are identified in order for the Quality Standards to be met. This provision has been removed from the Rules.
- As a transition arrangement, any TFI set under the previous Commission Rules will continue to be managed administratively and services can expect a performance assessment after the previously advised TFI expiry date.
- The Commission may identify areas for improvement that a provider must make to ensure the Quality Standards are complied with, and where necessary, **direct the provider to revise its plan for continuous improvement (PCI)**.
- Risk-based monitoring and management of the non-compliance is then determined based on the nature of non-compliance and the level of risk to consumers, what is known about the provider, and the information in the providers revised PCI.

### Notices of Non-compliance and enforceable sanctions

- The Commission's response to non-compliance is proportionate to the level of assessed risk. A direction to revise the PCI will not be issued where a risk assessment indicates that other compliance pathways are more appropriate. These other pathways include enforceable regulatory actions taken by the Commission such as issuing a Non-Compliance Notice or Notice of Decision to Impose Sanctions. This removes duplicative processes.

### Escalating non-compliance where there is risk of harm to consumers

- The serious risk provisions have been removed from the Commission Rules as the Commission has new powers for monitoring and enforcing compliance under the *Aged Care Quality and Safety Commission Act 2018* (as amended). These new powers include identifying where there is **immediate and severe risk** to consumers and considering whether to impose sanctions. This removes duplication in considering evidence of potential harm to consumers.
- Assessment teams continue to be alert to potential failure in the quality of care and services, and risk of harm to consumers. They will escalate to a delegate of the

Commissioner, evidence regarding risk. This may result in a risk assessment and escalation for consideration of immediate and severe risk and enforceable regulatory actions.

### 3. Accreditation

#### Reaccreditation of certain previously accredited services (recommencing services)

- Certain previously accredited services (i.e. those with no consumers) may now be re-accredited as if they were a commencing service, removing the need for a site audit to be conducted for re-accreditation.

#### Deemed accredited services

- A flexible care service providing short-term restorative care in a residential setting may now be a 'deemed accredited service' in circumstances where the provider of a flexible care service is allocated flexible care places under Div 14 of the *Aged Care Act 1997*, and the flexible care places are being provided in an accredited service.

#### Reconsideration timeframes

- The timeframe for reconsideration of certain regulatory reviewable decisions has been extended from 14 to 28 days.

### Where can I find out more?

You can read the Commission Rules [here](#).

Refer to the [Commission's website](#) for updates and additional fact sheets on the key changes to the Commission Rules.



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