



Key changes for providers from 1 January 2020: Serious risk

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. A summary of all the amendments are details in the Fact sheet: [Key changes for providers from 1 January 2020](#).

This fact sheet provides further details on the amendments to the Commission Rules from 1 January 2020 in relation to serious risk.

The information in this fact sheet applies to:

- accredited residential services
- services delivering home care packages
- Commonwealth Home Support Programme services
- flexible care services providing short-term restorative care.

Removal of serious risk provisions

Prior to 1 January 2020, where there was failure by a provider of a service to comply with the Aged Care Quality Standards (Quality Standards), the Commission decided whether the failure placed or may place the safety, health or well-being of a consumer at serious risk.

From 1 January 2020 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.

Although the serious risk provisions are removed, Assessment Teams continue to be alert to any potential failure in standard of care or service that may place a consumer's safety, health or well-being at risk.

Where there is evidence of potential non-compliance, the Assessment Team leader immediately contacts the relevant Regional Office by phone to communicate this information.

The relevant Regional Office will consider the information and take a risk-based approach to determining further actions. This may include escalating to a delegate of the Commissioner, evidence regarding risk to consumers. The delegate determines if there is immediate and severe risk and if sanctions will be imposed. Refer to the [Regulatory Bulletin on Responding to non-compliance with the Aged Care Quality and Safety Standards](#) for further information.

Consideration of serious risk process

The Commission Rules **do not include any transitional provisions for serious risk decisions**. This means that the Commission will not make any serious risk decisions from 1 January 2020 even where serious risk consideration processes commenced prior to 1 January 2020 but were not completed.

For example, the Commission sent a serious risk consideration to a provider in December 2019. The provider submitted a response to the consideration of serious risk in late December 2019. The Commission had not yet made a serious risk decision by 1 January 2020. Although the information may be considered by the Commission in regard to other performance assessment processes or accreditation decisions, the serious risk decision would not be made by the Commission.

Reporting regulatory decisions on serious risk

The Commission will publish in January 2020 any serious risk decisions made in December 2019. Any serious risk decisions published in the Commission's **serious risk register will remain on the Commission website** as retired data available through an archived provision.

From 1 January 2020, serious risk decisions will no longer be made by the Commission. Further publications of serious risk decisions will therefore cease.

Where can I find out more?

You can read the Commission Rules **here**. For support in understanding the Commission Rules and their operational implications, please speak with your local Regional office or refer to the **Commission's website** for updates and additional fact sheets on the key changes to the Commission Rules.



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