



# Regulatory Bulletin

## Publication of provider performance information

RB 2020-11

**The Aged Care Quality and Safety Commission (the Commission) undertakes a range of functions to determine whether aged care providers are delivering high quality care and services to aged care consumers.**

This Regulatory Bulletin details the information the Commission publishes about aged care service providers' performance in relation to their responsibilities under the *Aged Care Quality and Safety Commission Act 2018 (Commission Act)* and the *Aged Care Act 1997*, or the Commonwealth funding agreement that relates to a service.

Refer to the [Commission's glossary](#) for definitions of key terms.

### Key points

- The Commission is committed to providing transparency of performance information about providers to support consumer choice, promote continuous improvement and performance benchmarking with providers, and to give visibility to the Commission's work.

- The Commission publishes information about a provider's performance in relation to their responsibilities as an aged care provider on the Commission website. In addition, certain information is also published on the My Aged Care website.
- The Aged Care Quality and Safety Commission Rules 2018 (the Rules) require the Commission to publish certain information including performance reports, accreditation and re-accreditation decisions, reconsideration decisions and Administrative Appeals Tribunal (AAT) decisions.
- The Commission also publishes other information about the outcomes of its regulatory and complaints functions such as a service compliance rating; regulatory actions taken in response to provider non-compliance; complaints directions; and sector performance data.



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### Information in this bulletin applies to:

- All residential aged care services and flexible care services through which short-term restorative care is provided in a residential care setting
  - All home care services, Commonwealth Home Support Programme (CHSP) services and flexible care services through which short-term restorative care is provided in a home care setting.
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**Attachment:** N/A

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### Notes

This Regulatory Bulletin has been updated to:

- reflect the publishing of Notices to Agree (NTA) on the My Aged Care website
- remove references to detailed information on NTAs being published on the NTAs page on the Commission website.

This Regulatory Bulletin does not cover the publication of information relating to:

- performance of National Aboriginal and Torres Strait Islander Flexible Aged Care Program services
  - registration of a person as a quality assessor.
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**To be reviewed:** 18 September 2021

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# Publication of provider performance information

## ***Aged Care Quality and Safety Commission Act 2018 and Aged Care Quality and Safety Commission Rules 2018***

Under the Aged Care Quality and Safety Commission Rules 2018, the Commission is **required to publish certain decisions**, including decisions relating to the accreditation of residential services, reconsiderations and AAT decisions. The Commission is also required to publish performance reports following site audits, review audits, quality audits and assessment contacts conducted for the purposes of assessing performance against the Aged Care Quality Standards (Quality Standards).

In addition to this, the Commissioner has authority, under sections 59(1)(h) and 59A(1)(g) of the Commission Act, to publish:

- information about the approved provider's performance in relation to responsibilities and standards under the Commission Act or the *Aged Care Act 1997*
- information about the service provider's performance in relation to the provider's responsibilities under the funding agreement that relates to a Commonwealth Home Support Programme service.

## **Specified performance information the Commission must publish**

The Commission is required to publish certain information on the [Commission website](#) under the Rules. The Rules require the following information to be published on the Commission website.

### **Performance reports**

The Commission produces a performance report following every site audit, review audit, quality audit and assessment contact (performance assessment) undertaken with residential or home services.

The performance report details the assessment of the provider's performance against the Quality Standards (compliance or non-compliance with the Quality Standards) in relation to a service. This report is prepared by a delegated Commission decision-maker and takes into account the findings detailed in the Assessment Team's report, any response the provider has submitted and any other relevant information.

The Commission publishes all performance reports following site audits, review audits, quality audits and assessment contacts conducted for the purposes of assessing performance against the Quality Standards with residential and home services.



Performance reports are published as soon as practicable after being sent to the provider.

Performance reports can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website.

## Accreditation and re-accreditation decisions

Sections 48 and 80 of the Rules require the Commission to publish decisions relating to the accreditation and re-accreditation of residential services. These decisions and the timeframes for publication are outlined in the below table.

Decision	Timeframe for publication
To accredit a commencing service or re-accredit a recommencing service made under section 29 of the Rules	As soon as practicable after decision is made
Not to accredit a commencing service or not to re-accredit a recommencing service made under section 29 of the Rules.	<i>If no reconsideration application received:</i> Within 28 days after the end of the reconsideration period
To re-accredit a residential service for a further period made under section 41 of the Rules.	<i>If reconsideration application received:</i> Within 28 days after the reconsideration decision is made
Not to re-accredit a residential service made under section 41 of the Rules.	
To revoke accreditation of an accredited service made under section 44 or 77 of the Rules.	
To vary an accredited service's period of accreditation made under section 77 of the Rules.	
Not to vary an accredited service's period of accreditation made under section 77 of the Rules	





Decisions related to accreditation and re-accreditation of residential services can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website.

## Reconsideration decisions

Providers may request reconsideration of certain decisions made by the Commission. Section 104 of the Rules requires that if the reconsideration decision relates to a regulatory reviewable decision, the Commission is required to publish the reconsideration decision.

### Regulatory reviewable decisions

open to reconsideration are:

- a decision not to accredit a commencing service or not to re-accredit a recommencing service made under section 29 of the Rules
- a decision to re-accredit a residential service for a further period made under section 41 of the Rules
- a decision not to re-accredit a residential service made under section 41 of the Rules
- a decision to revoke accreditation of an accredited service made under section 44 or 77 of the Rules
- a decision to vary an accredited service's period of accreditation made under section 77 of the Rules
- a decision not to vary an accredited service's period of accreditation made under section 77 of the Rules.

Reconsideration of regulatory reviewable decisions must be published on the Commission website within 28 days of the decision being made.

The Commission is not required to publish reconsideration decisions in relation to complaints reviewable decisions made under the Rules or reviewable decisions under the Commission Act. These reconsideration decisions are not published on the Commission website. If a complainant is not satisfied with the outcome of a review decision, the process can be referred to the Commonwealth Ombudsman.

Information about reconsideration of specific regulatory reviewable decisions can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website. Refer to the [Commission's Regulatory Bulletin on Reconsiderations of regulatory decisions](#) for more information about these decisions.

## Administrative Appeals Tribunal decisions

Where a provider is not satisfied with the outcome of a reconsideration decision in relation to a regulatory reviewable decision, the provider may make an application to the Administrative Appeals Tribunal (AAT) for review of the reconsideration decision.

If an application for review of a reconsideration decision by the AAT is received, section 104 of the Rules requires the Commission to publish a notice stating the reconsideration decision is subject to review by the AAT.

Once the AAT has made a decision on the application for review of reconsideration decision, the Commission must also publish the AAT decision on the Commission website.

AAT decisions can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website.



## Other performance information about the performance of providers that is published

### Service Compliance Rating

From July 2020, for the first time, consumers will be able to see the compliance status of residential services in an accessible and comparable format, through a Service Compliance Rating on the [My Aged Care website](#).

The rating is based on existing processes and decisions of the Commission and signifies a service's compliance status. Ratings will be changed in a timely manner and will be up to date as they are published shortly after the Commission publishes its regulatory decisions.

The performance of each service is categorised as a dot rating out of four. This rating is based on a service's current compliance status, using the following criteria:

Service Compliance Rating	Reason for rating	Description of rating on My Aged Care website
Four dots ●●●●	No areas for improvement identified in the most recent quality assessment	Meets requirements
Three dots ●●●○	Areas for improvement identified in the most recent quality assessment	Some improvements needed
Two dots ●●○○	Current non-compliance notice	Significant improvements needed
One dot ●○○○	Current sanction or notice to agree	Inadequate



When using the My Aged Care [Find a provider](#) tool to search for a service, the Service Compliance Rating will be displayed for each service in the search results list.

## Non-compliance register

From July 2020, the Commission commenced publishing a central register of all provider non-compliance determined by the Commission. The register provides information on non-compliance with provider responsibilities including non-compliance against the Quality Standards, the Prudential Standards and other responsibilities under the *Aged Care Act 1997*. The register also details the regulatory actions taken by the Commission in response to the non-compliance.

Information about non-compliance that is published in the register includes:

- name of service and provider of the service
- Commission identifier for the service
- non-compliance date
- provider responsibility that the non-compliance relates to
- the regulatory action taken in response to the non-compliance, such as:
  - Directions to revise Plan for Continuous Improvement (PCI)
  - Non-compliance Notices
  - Notices to Agree
  - Notices of Decision to Impose Sanctions.

The non-compliance register is updated on a monthly basis and can be accessed from the [Non-compliance register page](#) on the [Commission website](#).

## Non-compliance Notices

When a Non-compliance Notice (NCN) is issued, the provider has an opportunity to respond to the notice. After the Commission has considered any submissions, information regarding the NCN is published on the My Aged Care website.

The information published includes the name and address of the service, the name of the relevant provider, the reasons for the NCN and the date of issue.

NCNs can be accessed on the My Aged Care website by doing a search for a service via the [Non-compliance checker](#).

Information regarding the NCN is also published in the [non-compliance register](#) on the Commission website.

## Notices to Agree

Where a provider's non-compliance has resulted in the Commission considering imposing a sanction to revoke a provider's approval to deliver aged care, the Commission may – in certain circumstances – first issue the provider a Notice to Agree (NTA). Information regarding the NTA is published on the My Aged Care website.

The information published includes the name of the service, name of the provider, the date the notice was issued, a summary of the requirements the provider must agree to and the date they must agree to this by.

NTAs can be accessed on the My Aged Care website by doing a search for a service via the [Non-compliance checker](#).



Information regarding the NTA is also published in the [non-compliance register](#) on the Commission website.

## Sanctions

Information on all sanctions imposed is published on the My Aged Care website.

Information about sanctions in relation to a service can be accessed on the My Aged Care website by doing a search for a service via the [Non-compliance checker](#). The information published includes the name and address of the service, the name of the provider, the sanctions imposed under the *Aged Care Act 1997*, the reasons for imposing sanctions, relevant dates and the status of the service.

Information regarding the sanction is also published in the [non-compliance register](#) on the Commission website.

## Complaints Directions

In dealing with aged care complaints, the Commission may issue a Complaints Direction to a provider where the Commissioner is satisfied that the provider is not meeting provider responsibilities under the *Aged Care Act 1997*, or the Aged Care Principles, or funding agreement in relation to an issue raised in a complaint.

A Complaints Direction will only be published if a provider does not respond to a Notice of Intention to Give Directions, or if the provider is unable to satisfy the Commission that they are compliant with their responsibilities. Under the Rules, providers are required to comply with a Direction.

Complaints Directions published by the Commission can be accessed from the [Complaints Directions page](#) on the Commission website. The information published includes the name of the service, the name of the provider, the date the Direction was signed, the summary of actions to be met and the date by which actions are to be met.

## Consumer experience reports

The Commission undertakes Consumer Experience Interviews (CEIs) with consumers at residential services and home services. CEIs involve asking consumers a standardised set of interview questions about their experience of the quality of care and services the consumer receives. The answers to these questions are then collated into a Consumer Experience Report (CER) on the service. CERs for residential services are published on the Commission website and can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website.





CERs for home services are not currently published on the Commission website.

CERs are published as soon as practicable after being sent to the provider and can be accessed by searching for the service's dedicated performance information page via the [Find a report](#) function on the Commission website.

Further information on CERs is available on the [Commission website](#).

### Sector performance data

The Commission publishes a range of sector performance measures on a quarterly basis. Data published includes:

- the number of performance assessment activities conducted
- the occasions when non-compliance was found
- the areas where services were found most frequently to be non-compliant with the Quality Standards
- the volume of complaints received, and the issues most frequently raised in complaints.
- Sector performance report information can be accessed from the [Sector Performance page](#) on the Commission website.

## Frequently asked questions

### 1. Why does the Commission publish information about provider performance?

The Commission is required to publish certain information on the Commission website under the Rules. The Commission also makes publicly available outcomes of its regulatory and complaints functions to ensure transparency and visibility to:

- help consumers make informed choices about aged care services
- drive improvements in the quality and safety of aged care services
- enable providers to benchmark their performance and manage risks and continuous improvement
- inform the public about the Commission's work.



## 2. Where can I access information about a provider's performance?

Information about a provider's performance is available through the Commission's website and on the My Aged Care website.

### Information published on the Commission's website

The [Aged Care Performance](#) section of the Commission's website includes access to a dedicated page for each aged care service detailing current and historical performance information about that service. Performance information available from these pages includes:

- performance reports from quality assessments
- decisions relating to accreditation (if applicable)
- Non-compliance register
- Complaints Directions.

### Information published on the My Aged Care website

- Performance information available from the [My Aged Care website](#) includes:
- Service Compliance Ratings
- Non-compliance Notices
- Notices to Agree
- Sanctions.

Performance information about a service can be accessed by doing a search for a service via the [Non-compliance checker](#).

## 3. Are providers given an opportunity to respond prior to the publication of performance information?

Before making a decision, Commission decision-makers provide procedural fairness to a provider that may be adversely affected by the decision. Procedural fairness is an administrative law requirement that allows an affected party to respond to adverse information before a final decision is made.

There is no requirement or provision for subsequent conferral with a provider prior to the publication of provider performance information. If a provider has concerns about the publication of performance information related to their service(s), the provider can make a submission outlining their concerns at the same time as they are responding to adverse information prior to a decision being made.



#### **4. What if there is an error in the information published?**

The Commission undertakes various checks to ensure the information is correct. However, if an error in the information published is identified, please notify the Commission by emailing [info@agedcarequality.gov.au](mailto:info@agedcarequality.gov.au) or by calling 1800 951 822.

#### **5. When did the Commission start to publish performance reports?**

Prior to 1 January 2020, the Rules did not require a Commission decision-maker to prepare a performance report following a performance assessment. Instead, the Rules required the Assessment Team to prepare a report of their findings and it was this report that was published on the Commission website (for site audits and review audits only).

As a result of changes to the Rules on 1 January 2020, a Commission decision-maker is now required to prepare a performance report following every site audit, review audit, quality audit and assessment contact (performance assessment).

Under the Rules, the Commission is required to publish all performance reports prepared by Commission decision-makers. Publication of performance reports applies from 1 January 2020 for site audits and review audits and from July 2020 for quality audits and assessment contacts (performance assessment).

#### **6. What information is published regarding assessment contacts (monitoring)?**

In addition to assessment contacts (performance assessment), the Commission also undertakes monitoring assessment contacts with services – referred to as assessment contacts (monitoring). The purpose of these assessment contacts is to monitor the quality of care and services provided by the service. The Commission does not publish information about assessment contacts (monitoring) on the Commission website.

#### **7. What information does the Commission publish about accreditation decisions? Is the written decision sent to a provider?**

Where the Commission has made a decision related to the accreditation or re-accreditation of a service, the Commission is required to give written notice of the decision to the provider and publish the decision on the Commission website.

The Commission does not publish the full decision document sent to the provider; instead, a paragraph summarising the decision is published. For example, for a decision to re-accredit a service for a further period, the below text is published:



### Accreditation decision

Following a site audit conducted on [Activity Start Date] to [Activity End Date], the Commission made a decision on [Decision Date] to re-accredit this service.

The period of accreditation of the service will expire on [Accreditation End Date].

## 8. What information is published about a Direction to revise a PCI?

Where a provider is found to be non-compliant with one or more requirements of the Quality Standards, the Commission may, where there is low to medium risk, issue a Direction to a provider to revise their service's PCI.

This approach is intended to bring the non-compliance to a provider's attention and give providers the opportunity to set out how they will make improvements to ensure that the Quality Standards are complied with, prior to enforceable regulatory action being taken if required.

The Commission's non-compliance register will indicate whether a Direction to revise PCI has been issued to a provider in response to non-compliance with the Quality Standards.

## 9. What other information about the performance of the service is published with the Service Compliance Rating?

A comparable summary of the residential service's most recent assessment against the Quality Standards by the Commission will also be published on the [My Aged Care website](#).

Where available, the Consumer Experience Report will also be published to summarise what consumers have said about the service.

## 10. How long does performance information remain published?

### Performance reports and Consumer Experience Reports

Once a performance report or Consumer Experience Report about a service is published on the Commission website it will remain published. The reports will not be archived or deleted after a certain period.

This is also the case for services that have closed. The Commission will update the service's dedicated performance information page to advise that the service has closed and the reports will remain available.

### Decisions relating to accreditation

Once decisions relating to the accreditation and re-accreditation of a service including reconsideration decisions and AAT decisions are published on the Commission website, they will remain published. The decisions will not be archived or deleted after a certain period.





This is also the case for services that have closed. The Commission will update the service's dedicated performance information page to advise the service has closed and all historical decisions made in relation to the service will remain available.

### Non-compliance register

Information about a provider's non-compliance in relation to a service will remain published in the Non-compliance register for one month; the information will then be moved to an archives page on the Commission website. The archives page can be accessed via the [Non-compliance register page](#).

### Complaints Directions

Complaints Directions are published for a period of three years on the Commission's website, after which the published information will be moved to an "Archived Complaints Directions" page.

### Non-compliance Notices

An NCN will appear on the "Current Non-compliance Notice" page on the My Aged Care website until the provider has addressed the non-compliance.

Once the provider has addressed the non-compliance, the published information will move to an "Archived Non-compliance Notice" page where it will remain for a certain period of time. Non-compliance identified prior to 1 July 2020 is archived for a period of two years. Non-compliance identified from 1 July 2020 is archived for a period of three years.

### Notices to Agree

An NTA will appear on the "Current Sanctions and Notices to Agree" page on the My Aged Care website until the requirements outlined in the NTA are met. Once all of the requirement(s) of the NTA are met, the NTA will move to an "Archived Sanction and Notice to Agree" page where it will remain for a period of three years.

The NTA may have multiple requirements each with their own timeframes to be met. NTAs will only be archived once the conditions of the longest requirement have been met.

### Sanctions

Information published on the My Aged Care website on sanctions imposed is never deleted. Once a sanction expires, or is lifted by the Commission, the published information is moved from the "Current Sanction and Notice to Agree" page to the "Archived Sanction and Notice to Agree" page.

The "Archived Sanction and Notice to Agree" page contains information on all sanctions imposed by the Department of Health (prior to 1 January 2020) and the Commission (from 1 January 2020).



## 11. How can a provider improve their Service Compliance Rating?

Providers should focus on addressing areas of non-compliance with respect to their aged care services to ensure that expected standards of care and responsibilities as a provider are met.

The Service Compliance Rating will be updated once the Commission is satisfied that the service has achieved compliance. This will move the Service Compliance Rating to a four-dot rating. In most cases this will be based on evidence considered by the Commission at the end of a compliance management plan or, where there is a sanction, at expiry of the sanction period.

## 12. Will there be an enduring record of a Service Compliance Rating?

The My Aged Care website displays three years' worth of compliance history, both active and archived.

From July 2020, with the implementation of the Service Compliance Rating, the previous ratings (as applied to this history) will be displayed in a drop-down field.

## Need to know more?

If you have any questions or feedback on this Bulletin, contact the Commission's Regulatory Policy Team by email on: [regulatorypolicy@agedcarequality.gov.au](mailto:regulatorypolicy@agedcarequality.gov.au)

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