

Regulatory Strategy 2024–25

Version 2.0 | August 2024



Australian Government
Aged Care Quality and Safety Commission

Engage
Empower
Safeguard

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Commissioner's foreword

Everyone agrees on the principal goals for aged care in Australia: older people deserve to have a great aged care experience; we need a thriving aged care sector because without 'healthy' providers there is no sector; and the Aged Care Quality and Safety Commission as the national regulator must be effective in safeguarding and protecting older people receiving care.

Briefly exploring each of these three goals from the perspective of care recipients serves to illuminate what is at stake here.

People should be confident that in older age their needs for care will be met in ways that respect them and support their individual dignity. Each older person has a right to expect that they will receive safe, quality aged care that meets their changing circumstances. They are also looking for a positive experience, where the care and services provided promote their wellbeing and quality of life as far as possible.

Further, older people value choice and reliability in their aged care services, and these characteristics are more likely to be found in a thriving aged care sector where providers are motivated to deliver high-quality care and strive for continuous improvement.

The Commission's existence acknowledges the central role that safeguards and protections play in ensuring a great aged care experience. Older people, providers and the wider community rightly hold the Commission responsible and accountable for the outcomes we achieve as the regulator.

Everyone – older people, their family and friends, providers and their staff, the Commission – wants to have a high level of trust in aged care. Building that trust takes time and effort. It requires a commitment by each provider, care worker, and the Commission to meet our respective obligations and deliver on undertakings in a way that meets the needs and preferences of older people.

The Commission is committed to building trust in our capability as the regulator of aged care, and in holding providers and workers to account to do the same. A key measure of success for the Commission is whether and to what extent older people, providers and workers have increased confidence that the Commission is consistently fair, balanced and effective in how we regulate aged care.

By **fair**, we mean objective and transparent in our decision-making as we engage with older people, providers and workers when we regulate. By **balanced**, we mean our decisions and actions are risk-based and proportionate. By **effective**, we mean that in everything we do we are focused on outcomes that improve services and each older person's experience of aged care.

Our Regulatory Strategy sets out how the Commission will deliver on our goals and commitments. It outlines our approach to holding providers and workers accountable through managing complaints, risk analysis, provider supervision and enforcement. It also speaks to how we incentivise and support providers and workers to consistently reach for delivery of high-quality care and how we are simultaneously building our own capability and accountability.

This Regulatory Strategy is informed by evidence-based practice and the Commission's recent Independent Capability Review. It also has a sharp eye to the 'once in a generation' change that the new Aged Care Act is bringing to aged care in this country. Equally importantly, the Regulatory Strategy draws on the conversations we are having every day with older people, providers and workers.

The Commission is a maturing organisation, listening and learning, building our expertise, and striving to be a world class regulator. Excellence is our aspirational destination – both for the Commission and the aged care sector – and our Regulatory Strategy has been designed to propel us in that direction.

A handwritten signature in black ink that reads "J. M. Anderson". The signature is written in a cursive, slightly stylized font.

Janet Anderson PSM
Commissioner

Introduction

Having access to quality aged care matters. For many older people, it is the key to ensuring that they continue to enjoy independent and dignified lives. The quality of the care and services is critical because it impacts people’s wellbeing and ability to enjoy their life.

The Commission wants every older Australian who needs aged care to receive care that is safe and high-quality. All older people have the right to experience aged care at its best and we are committed to maximising our impact as the regulator of aged care in Australia to achieve this.

To do this we have invested in our ability to continuously monitor the sector, providers and workers, ensuring we have eyes on all the time and can identify the risks that may harm older people. We are shifting our responses to address these risks early and prevent harms from occurring, so we don’t just act after things go wrong. This includes how we regulate providers and the introduction of the provider supervision approach that holds boards and senior leaders accountable for how their organisation delivers care.

Our Regulatory Strategy outlines our proportionate approach to regulating providers and workers, how we respond to risk and harm, and how we act to prevent harm from occurring in the first place. It describes how we identify risks and undertake supervision and enforcement to hold providers and workers to account, and safeguard and protect older people.

We are being clearer with providers about what we expect and what good care looks like. Where providers continue to be unwilling or unable to prevent risks, our regulatory responses are selected to compel action, enforce consequences and reinforce the protections that should be in place.

We expect providers to be responsible for the delivery of care across all their services all the time, and to work with older people in genuine partnership to identify opportunities for improvement, delivering the high-quality aged care that older people deserve.

Older people need to be assured that if things go wrong, providers and workers will **remedy** non-compliance, **restore** their trust in the care being delivered, and take steps to **prevent** the non-compliance from reoccurring.



Our Regulatory Strategy recognises that the best assurance of high-quality care for older people is a thriving aged care sector with providers striving for excellence. Our approach to regulation recognises providers who are getting it right and providing a level of care that enriches older people's lives. We expect and celebrate models of care that aim high, strive for best practice and exemplify the rights of older people to quality aged care. We also acknowledge and take into account when providers lead and proactively engage in the processes of remediation, restoration and prevention when things do go wrong.

The Commission models best practice complaint handling with an emphasis on restorative engagement. We know the importance for older people of having trust and confidence that they can raise concerns with their worker, provider or the Commission. It reinforces their right to receive safe and high-quality care and exercise personal agency to raise issues and have them responded to appropriately.

Woven throughout our Regulatory Strategy are the concepts of fairness, balance and effectiveness. The principles of best practice regulation have helped us to develop and define these guiding concepts which, through application in our work, also serve as the measures against which we hold ourselves to account.

Providers tell us that consistency (**fairness**) in our decision making is very important so we are working hard to standardise the evidence gathering and decision making of our staff.

Older people tell us that they want to understand the actions we take (including compliance and enforcement) in response to their concerns (**fair and effective**). Consequently, we are working to improve the information we share with them.

Workers tell us that they want to be confident that if a concern is raised with us about their compliance with the [Code of Conduct for Aged Care \(Code of Conduct\)](#), they will be given the opportunity to understand and respond (**fair and balanced**). We have embedded these principles within our policies and procedures and are committed to delivering them.

Alongside the Department of Health and Aged Care, the aged care sector and older people, we are preparing for a reformed, rights-based approach to the delivery of high-quality aged care under a new Aged Care Act that will define our role and functions into the future. Our Regulatory Strategy outlines how we are changing our regulatory practice, policies and operations to ensure that we are ready to deliver on the intent of the new Aged Care Act and the 'once in a generation' change it will drive in how aged care is provided in Australia.

Purpose and audience

This document sets out the Commission's Regulatory Strategy for 2024–25. We will update the Regulatory Strategy annually, including ahead of the introduction of the new Aged Care Act.

The purpose of the Commission's Regulatory Strategy is to provide clarity and transparency about our approach to regulation of the aged care sector as we work to maintain and build the quality and safety of care provided to older people. It describes how we intend to build further confidence and trust in us and the providers and workers who provide aged care. It explains how:

- safeguarding and protecting older people is at the centre of everything we do
- we meet our regulatory responsibilities under the current legislation
- our policies and strategies work to identify and respond to risk and enhance older people's experience of aged care
- we inform and engage with our stakeholders
- we regulate providers and aged care workers to ensure that they provide safe and high-quality care to older people.

The Regulatory Strategy is for 4 main audiences:

- **Older people and their supporters** – assisting older people and the community more broadly to understand their rights to quality aged care and how we regulate aged care providers and workers.
- **Providers of aged care** – providing a clear statement of how aged care providers can expect the Commission to undertake its regulatory functions. It is also aimed at representatives of regulated entities, such as peak bodies.
- **Aged care workers, responsible people and volunteers** – providing clarity about the responsibilities of those who provide direct care to older people.
- **Staff of the Commission** – establishing a consistent framework for how we work and how we build trust in the Commission to regulate the aged care sector.

We regulate all providers who deliver Commonwealth-subsidised aged care to older people. This includes providers of:

- residential care service
- home care services

- Commonwealth Home Support Program (CHSP) services
- flexible care services, such as the [National Aboriginal and Torres Strait Islander Flexible Aged Care Program](#), [Short Term Restorative Care Program](#) and [Transition Care Programme](#).

We also regulate individuals who work in aged care under the [Aged Care Code of Conduct](#). These include:

- aged care workers who provide direct care to older people
- volunteers engaged by providers
- responsible people or people who have authority or significant influence over planning, directing or controlling the activities of an organisation. This includes board members, provider executive staff, service managers
- sub-contractors of providers who provide care and other services.



1 Our approach to regulation

1.1 Rights-based approach

The Commission's core business is to safeguard and protect the rights of older people who receive aged care. Older people have the **right** to:

- **high-quality care** – providers are expected to always be reaching beyond minimal compliance, aiming to deliver high-quality care. Our new regulatory diamond ([page 12](#)) shows how we focus on engaging with providers and workers to support and lift capability to create an environment where delivery of high-quality care is the expected norm
- **be safeguarded** – older people who receive aged care are safeguarded when the sector, government and all those working in the aged care system are committed to ensuring the delivery of high-quality care. Everyone delivering care to older people has a role in safeguarding their right to quality and safe care
- **be protected** – older people who receive aged care have the right to feel and be safe, to be free from abuse or poor care, and to be able to raise concerns about their care without fear of retribution. Older people must be able to trust that if something goes wrong, their wellbeing will be the highest priority for workers, providers and the Commission. They deserve to have confidence that the problem will be fixed, that people responsible are accountable, that the process for addressing the issue is transparent and involves them, and that regardless of what went wrong, those responsible have taken steps to prevent it from happening again.

1.2 What the Commission cares about

The Commission cares that every older person receives safe, effective and sustainable person-centred care and services. We also care about how well we do our job and the impact we have on the lives of people receiving aged care. We care that the work we do is effective and builds trust and confidence; that we meet community expectations as we regulate providers and workers across the sector.

To do this we intervene in the right way at the right time to safeguard and protect older people while also recognising and supporting aged care providers who are getting it right and exceeding standards in the care they provide. Finding that balance is the key to how we help to build the trust and confidence of older people, providers, workers and the wider community.

1.3 How we regulate

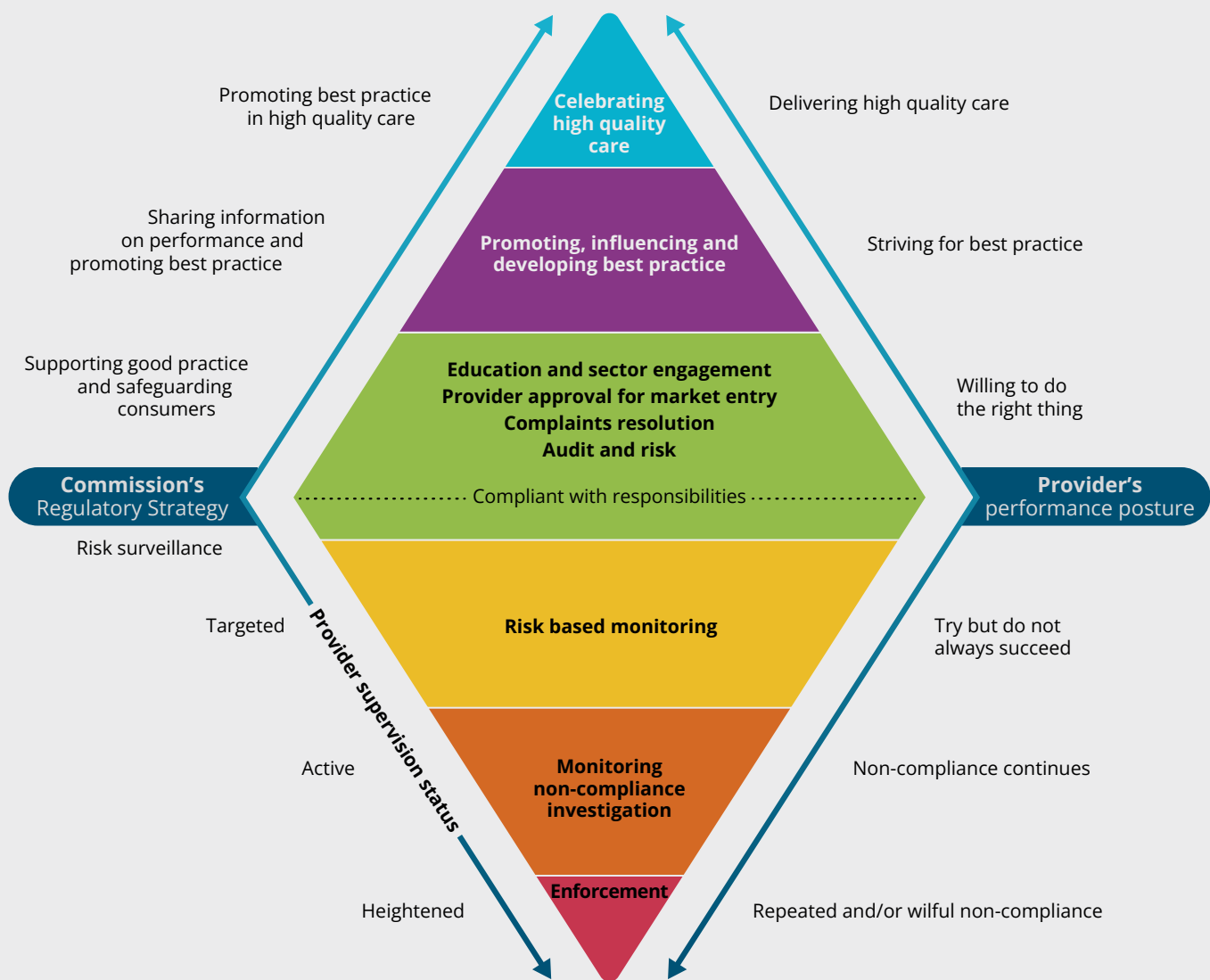
The Commission aims to be fair, balanced and effective in our approach to regulation, and to use the right mix of regulatory tools to get the best results for older people. We will be transparent and work with stakeholders to ensure that we are risk-based, **fair**, proportionate and **balanced** in our approach. We will also monitor our own **effectiveness** as we focus on outcomes to improve quality care for older people.

This approach is demonstrated in the **regulatory diamond**. The diamond explains how we adopt a proportionate, fair and balanced response to risk when providers are willing and able to do the right thing and we can see that they strive to deliver high-quality care. The top part of the diamond explains how we publish information about best practice aged care and performance data about the sector to support and incentivise high-quality care. It also explains how we safeguard older people by regulating market entry, conducting regular audits and supporting them to resolve complaints.

We know that most providers and workers strive to provide the best care they can, and many will sit within the top half of our regulatory diamond. However, providers and workers should be aware that the Commission's efforts do not stop just because a provider is compliant with their responsibilities. Older people and the general community expect more and therefore, so do we.

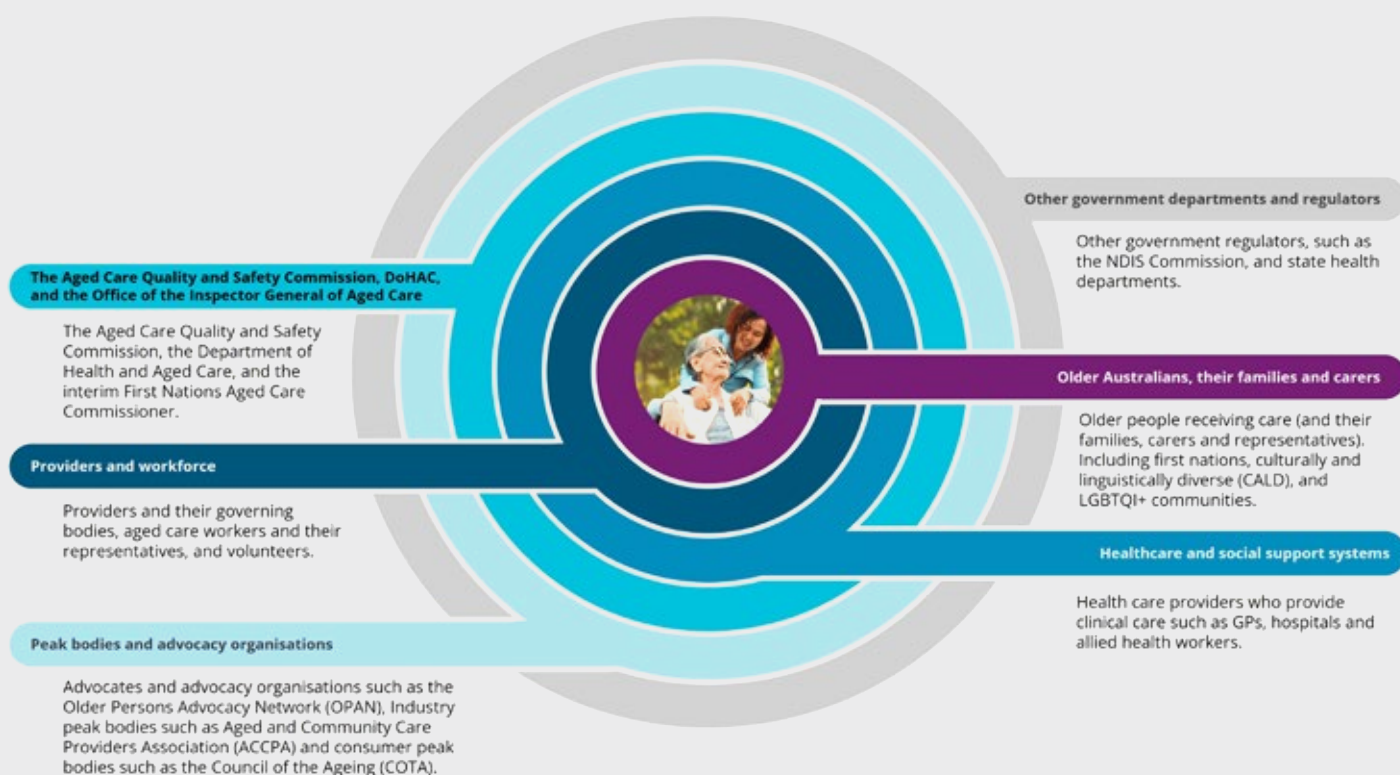
The bottom part of the diamond shows how we have 'eyes on' all providers all the time through risk surveillance, and that when things go wrong, we adopt a balanced regulatory response through a provider supervision model ([page 29](#)). This means that we protect older people by engaging with providers to ensure that they remedy the problem, restore trust and prevent recurrence, and in some cases, we take enforcement actions to reinforce the protections. This can include, in situations of irremediable risk and unacceptable failures in care, a managed exit of a provider from the sector.

Aged care regulatory diamond



1.4 Regulation founded on trusted relationships

We will only achieve the best outcomes for older people if we have trusted relationships with them and partnerships with other aged care stakeholders. The Commission is committed to being a genuine partner with our stakeholders – through being fair, balanced and effective in our regulatory approach. We recognise that each stakeholder has a significant role to play in the effective delivery of high-quality aged care. More information about our stakeholder engagement can be found in our [Aged Care Quality and Safety Commission – Stakeholder Engagement Strategy 2023-2025](#).



1.5 Listening to older people

Older people are at the centre of all that we do, and we listen to them to maintain our understanding of what is important to them and what they need from the Commission. Older people's insights have significantly informed this Regulatory Strategy. We hear from older people through our [Consumers and Families Panel](#). The member panel helps the Commission to understand older people's concerns and how we can support their rights to quality aged care through clear and accessible information.

The panel embraces diversity and welcomes people who:

- live with dementia or disability
- identify as First Nations
- are from multicultural backgrounds
- identify as lesbian, gay, bisexual, trans or transgender, intersex or queer, or another sexuality, gender or bodily diverse person.

The panel is also the place where stakeholders share ideas and opinions about:

- new fact sheets, videos or other resources
- how people receiving aged care can interact with us
- issues that we should know about.

We also listen to older people who provide feedback to us about how we managed complaints and through interviews which are part of our audit, monitoring and enforcement activities. We undertake research, surveys and focus groups with older people and their supporters, and listen to and consult with groups (such as the [Older Persons Advocacy Network](#) and [Council on the Ageing](#)) that represent older people receiving aged care services and their supporters.

1.6 Keeping older people informed

It is also important that we effectively communicate with older people. We aim to provide accurate information that is clear, straightforward and accessible through our website [for older people](#) where we publish a range of different resources in many languages. Older people who prefer to speak with someone over the phone can ring our customer contact centre (**1800 951 822**).

We also provide people with information about how individual aged care services performed against the Quality Standards to assist older people and their families to make informed choices about their preferred provider on [My Aged Care Service Finder](#). We publish [non-compliance decisions](#) and [banning orders](#) relating to aged care providers and workers on our website, as well as information about [Star Ratings](#) and compliance ratings.

The Commission also publishes regular reports to share the insights we gain through complaints processes about what matters to older people ([page 17](#)).

1.7 Aged care for First Nations older people

The Royal Commission into Aged Care Quality and Safety and the subsequent Independent Capability Review of the Commission recommended that the Commission do more to support First Nations older people's access to aged care services, and the Commission is implementing a broad range of activities in response. These activities aim to:

- increase the number of First Nations providers
- support mainstream providers to care for First Nations people
- uplift staff to provide culturally sensitive aged care services
- identify ways to ensure that the Commission's regulatory approach is culturally appropriate for First Nations providers
- strengthen culturally safe complaints services for First Nations people and providers.

To achieve these aims, the Commission established the First Nations Aged Care Reference Group with representatives from First Nations stakeholders as a forum for providing strategic oversight and advice to the Commission's work. The initial focus of the Reference Group is the Commission's communications and engagement strategy, as part of sector readiness, for the upcoming reforms and is expanding to broader Commission functions. The Commission is also:

- continuing to work with First Nations stakeholders including the Interim First Nations Aged Care Commissioner, the National Aboriginal and Torres Strait Islander Ageing and Aged Care Council and the National Aboriginal Community Controlled Health Organisation
- working with peak stakeholders and community to develop resources to build better pathways to make complaints
- undertaking activities to understand the operating context for First Nations providers and to inform the Commission's approach to assessing and treating notifications under the Serious Incident Response Scheme
- establishing a First Nations Aged Care Co-Design Group to facilitate engagement with stakeholder groups who can provide informed advice on messaging and resources
- engaging with First Nations organisations to facilitate provider approvals and reconsiderations.

The [Innovate: Reconciliation Action Plan](#) (RAP) was developed by the Commission's Indigenous Staff Network and approved by Reconciliation Australia in 2023. The RAP details how the Commission will:

- develop the Commission's First Nations recruitment and retention
- embed cultural safety practices throughout the Commission's operations
- promote First Nations events of significance
- broaden stakeholder engagement with the Commission.

1.8 Engaging with providers

Supporting providers to deliver high-quality care is the most effective way of safeguarding older people and ensuring that they have a positive experience of aged care. The Commission is committed to delivering sector-wide and targeted education and campaigns designed to lift provider performance on specific issues. This includes promoting best practice models for high-quality and safe care and explaining provider responsibilities in clear and straightforward ways.

We build relationships with aged care providers to encourage their investment and capability in delivering the high-quality services that older people expect. We do this by:

- building relationships with senior leaders to inform our understanding of the sector and shape our efforts to promote a better aged care sector
- engagement through provider supervision to incentivise providers to manage their performance, risks and non-compliance
- championing innovation and continuous improvement
- delivering targeted communication and education to support the sector to understand the new opportunities and requirements of aged care reforms
- publishing insights and data to reflect to the sector how we understand performance and to enable providers to compare themselves with others
- providing information and education to providers to support understanding of their statutory obligations as an aged care provider.



2 Complaints about aged care

2.1 A message from the Aged Care Complaints Commissioner

Everyone receiving aged care should be confident in the quality and safety of that care. That confidence comes from having choice and control over how that care is provided and being treated with dignity and respect. When something goes wrong, it is important that older people can raise their concerns in a constructive and safe way. Complaints are an early warning about an aspect of care that is causing concern for an older person. Good complaints handling by providers and workers focuses on the older person receiving care and reinforces their right to safe and quality care and services.

The Commission is working with providers to lift their complaints handling abilities and systems and their practise of open disclosure. In November 2023, we published our first report for providers about the complaints we receive about aged care services, sharing case studies and guided questions to help providers and workers assess and improve their complaints handling: [Complaints about aged care services – Insights for providers report 2023 | Aged Care Quality and Safety Commission](#).

We are also working to help older people receiving care feel more confident about raising concerns or complaints with providers directly, or with our help. In May 2024, we published [Complaints about aged care home service – Insights for people receiving care report](#) to inform people receiving home services. The report details the sorts of complaints we receive and resolve regarding home services providers, and encourages older people to engage directly with their provider – and/or with the Commission – if they have an issue with their care. We care about the experiences that older people, their families and carers have in aged care and when seeking help from the Commission. We are keen to listen and learn, and we want to support and empower older people to raise concerns with confidence and without fear. Older people need to know it is fair and reasonable for them to speak up and raise concerns, and providers and workers must make sure they create a supportive experience for the older person who is making a complaint.

With every complaint there is an opportunity for a positive story that restores and builds trust and confidence, and good relationships between providers, workers and older people. Providers who genuinely care about the older people in their care and providing high-quality and safe care should seek and encourage feedback and complaints. Trust and confidence in the local aged care service, whether it is a residential or home service, comes from what the local community thinks and knows about the provider based on the experience their loved one has had in that service and the stories they are told about the service.

The Commission is working with older people, their family and friends, and providers, to change the stories and perceptions of aged care and growing old, from stories of negative experiences to stories of positive and rewarding experiences. The best way to do this is to use feedback and complaints to tell us what is not working well and then work together to remedy the problem, restore the relationship and build trust and confidence, and prevent that poor experience from happening again.

2.2 The value of complaints

Complaints are one of the most important ways that the Commission engages directly with older people to understand their experience of aged care. At the same time, complaints are a vital source of intelligence for the Commission to respond quickly to risks to older people receiving aged care services.

In this way, complaints and their timely resolution can lead to improvements in care not only for one individual but typically for others as well. Complaints also help the Commission to understand where additional supervision of a provider is needed.

2.3 Empowering older people to complain

Every older person receiving aged care has the right to complain freely and without reprisal. The Commission empowers older people to make complaints by providing clear information and resources about their rights, how they can resolve complaints with providers, and what they can expect when they make a complaint to the Commission. We also encourage older people to engage with advocates who provide support for older people who may not feel confident in doing this by themselves. Information is available on our website ([Complaints and Concerns](#)) and promoted through aged care services, [older Australian advocacy groups](#) and our communication channels.

2.4 Our management of complaints

The Commission received 9,566 complaints in 2023–24. Each complaint is triaged and a plan developed for how to manage the complaint.

Resolution of the complaint may involve:

- further discussions with the complainant (and the older person where someone is complaining on the older person's behalf)
- seeking information from the provider through phone discussions or requests for information or documents
- requiring the provider to resolve the issue/s and report back to the Commission
- mediation or conciliation meetings
- a site visit to the service, which may be part of an investigation.

Restorative engagement will increasingly underpin our approach to complaints in the future. When something goes wrong, the Commission will encourage and facilitate communication between affected parties so that complainants, their family and carers feel heard and respected by ensuring that the provider is accountable for fixing the problem (**remedy**), restoring trust and confidence in the quality and safety of the services being delivered (**restore**), and taking steps to ensure it doesn't happen again (**prevent**). Restorative justice is a guiding principle that informs the Commission's decisions as part of the complaint handling process.

Restorative outcomes for the older person achieved through the complaints process could include:

- an apology
- committing to better communication
- fixing the problem, engaging with the complainant and keeping them informed
- reimbursement where fees and charges have been unlawfully applied
- staff education and training to improve staff skills as people who provide care to older people
- improvements in service delivery to older people.

2.5 Using complaints to identify risks and trends

Looking across the many thousands of complaints received by the Commission, we can also identify trends and areas where enhanced provider education, targeted campaigns or regulatory effort is needed. We share our insights with providers and the public through publications including [Complaints about aged care services – Insights for providers \(July 2022 – June 2023\)](#) and [Aged Care Quality and Safety Commission Sector performance reports](#).



3 Regulating providers and workers

3.1 Market entry

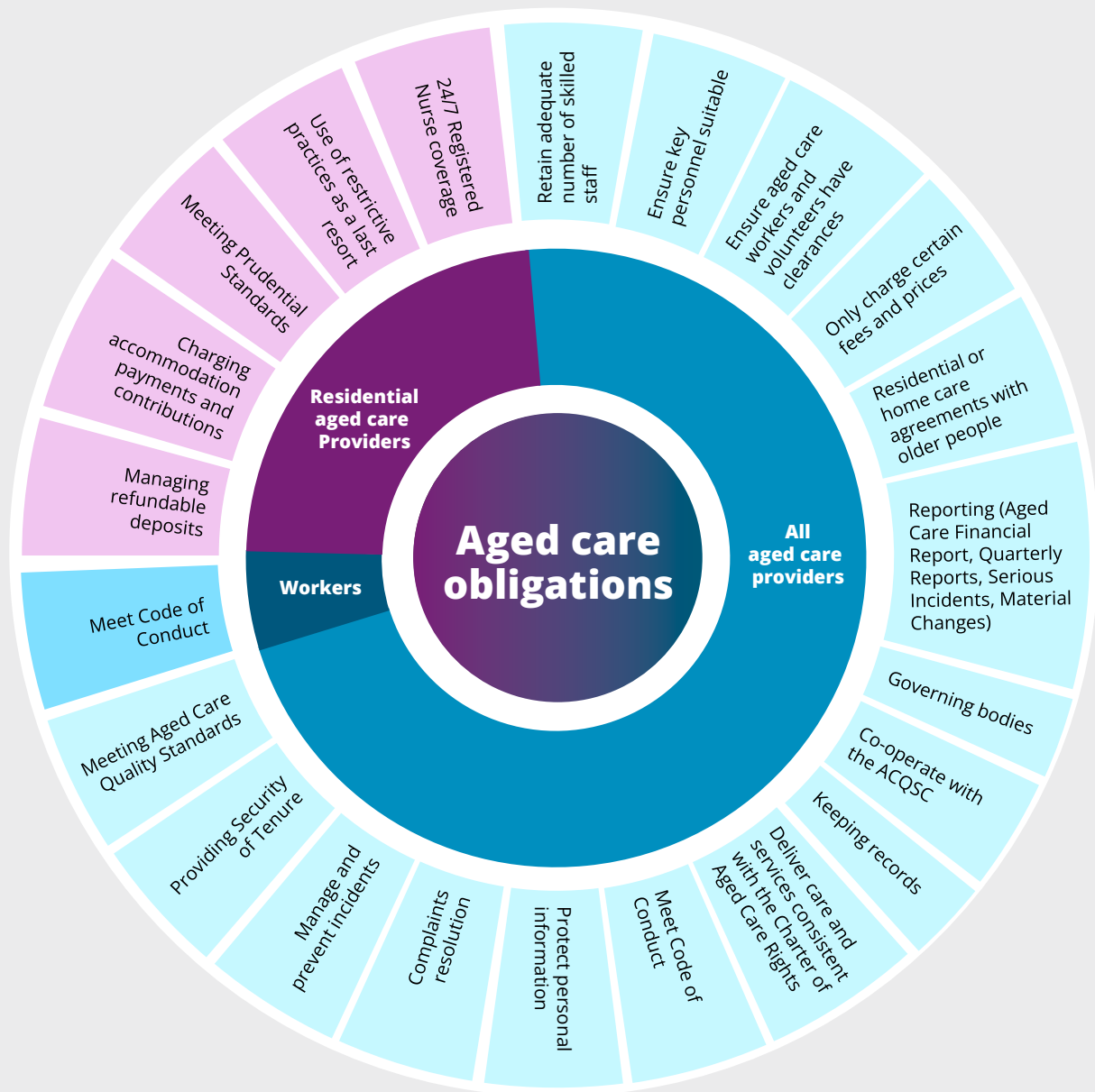
One of the best ways to safeguard older people is to ensure that only suitable and capable providers enter and remain in the market. The Commission undertakes a rigorous process to assess the capability and suitability of potential providers applying to provide Commonwealth-subsidised aged care, including that they understand their legal obligations and responsibilities to older people under the aged care law. Organisations seeking approval must also demonstrate that their [key personnel](#) (i.e. the people in charge) are suitable to provide aged care. [Follow this link to find out about becoming a provider.](#)

Some providers are not required to be approved under the aged care legislation because they are providing care under grant (funding) agreements with the Department of Health and Aged Care. This includes Commonwealth Home Support Programme (CHSP) providers and providers delivering care under the National Aboriginal and Torres Strait Islander Flexible Aged Care (NATSIFAC) Program. These providers still need to demonstrate their suitability through an alternative approval process through the Department of Health and Aged Care.

Under the proposed new Aged Care Act, CHSP and NATSIFAC providers will no longer be subject to care service obligations through the grant funding agreements with the Department of Health and Aged Care. Like other registered providers, CHSP and NATSIFAC providers will be subject to the same suite of obligations under the Act itself specific to their intended service types.

3.2 Obligations on providers once they enter the market

Once approved (or receiving funding from the Commonwealth under the CHSP or other grant programs), providers must meet a wide range of obligations depicted in the diagram on the [next page](#).



The Aged Care Quality Standards

The [Quality Standards](#) tell a provider the core requirements they must meet on an ongoing basis to ensure that the care they deliver is safe, high-quality and meets people's needs and preferences. The Quality Standards focus on outcomes for older people and reflect the level of care and services that the community can expect from providers. The [Royal Commission into Aged Care](#) highlighted that the current Quality Standards needed to be reviewed, in addition to identifying specific areas for inclusion: food and nutrition, diversity, dementia, governance and clinical care. The new draft [strengthened Aged Care Quality Standards](#) (not yet introduced) are designed to lift the standard of care received by older people by increasing protections and empowering them to exercise their rights. The new Standards will also support providers' continuous improvement of the care they provide.

Aged Care Code of Conduct

The [Code of Conduct](#) prescribes how providers, their workers, volunteers and governing persons must behave and treat people receiving aged care. The care they provide must be free of all forms of violence, discrimination, exploitation, neglect and sexual misconduct and providers must take reasonable steps to prevent and respond to such behaviours. Our website includes further information for [older people](#), [workers](#), and [providers](#) about the Code of Conduct.

Screening and police checks

Providers must undertake screening clearances (including a police check) for all their aged care workers, including their registered nurses, carers, volunteers and allied health workers.

Ongoing suitability checks for key personnel

Providers must continue to assess the suitability of key personnel at least once a year and advise the Commission of any suitability changes.

Financial and Prudential Standards

The link between the financial health of providers and the delivery of safe, high-quality care is well known. Residential aged care providers who hold refundable accommodation deposits must meet the Prudential Standards and their financial and prudential reporting responsibilities. This ensures that providers safeguard older people in their care through transparency about the providers' finances and managing their refundable deposits lawfully. More about the Prudential Standards can be found on [our website](#).

Serious Incident requirements

All providers must have an effective system to prevent and respond to incidents with a focus on the safety and wellbeing of older people. The [Serious Incident Response Scheme](#) (SIRS) requires providers to notify the Commission when a reportable incident is alleged or suspected to have occurred. We then monitor provider compliance including whether they are responding effectively to serious incidents. We respond quickly where we see any immediate risk or severe harm occurring to an older person receiving care.

Reporting to the Department of Health and Aged Care

Providers also have a responsibility to report periodically to the Department of Health and Aged Care. This includes:

- [National Aged Care Mandatory Quality Indicator Program \(QI Program\)](#)

- [Quarterly Financial Reporting](#)
- [Aged Care Financial Reports](#) (ACFRs) including Annual Prudential Compliance Statements
- [Provider Operations Reports](#)

The proposed new Aged Care Act will create a different way for the Commission to assess providers as they register to provide a variety of care and services, giving older people greater choice in the care they receive. More information about the anticipated changes to provider registration can be found in the Department of Health and Aged Care's [new Aged Care Act exposure draft consultation paper](#).

3.3 Regulating workers

The Commission regulates aged care workers, volunteers and governing persons under the [Code of Conduct](#). The Code of Conduct safeguards older people by ensuring that workers meet expected behaviours, such as acting with respect, when providing aged care. Where we have concerns about a worker's behaviour, we will act to stop them from entering, continuing or participating in different ways in the aged care sector.

Where worker conduct poses higher levels of risk to older people, we may undertake an investigation to gather further information about the worker's conduct and/or their provider to inform our response.

Examples of our response to workers who are non-compliant with the Code of Conduct (and for providers who may not be meeting their responsibility to make sure their workers comply with the Code of Conduct) include:

- issuing a reminder or caution letter to the worker and/or provider
- issuing a compliance notice against the provider
- banning the person from working in aged care. People banned on the grounds of not being suitable can be a current or former worker or key personnel, or somebody who has never worked for or been engaged by an approved provider. See published the [Aged Care Register of banning order orders](#) for more information
- making a determination that a person who is one of a provider's key personnel is not suitable to be involved in providing aged care
- taking other compliance and enforcement actions against the provider.

Our website includes further information for [older people](#), [workers](#), and [providers](#) about the Code of Conduct.

The proposed new Aged Care Act will give the Commission additional powers to safeguard older people by establishing a new national screening process for all workers, responsible persons (executive leaders and board members) and volunteers in aged care. This reform will enhance the protections for older people by ensuring that unsuitable workers do not come into the sector to deliver aged care services. More information about this reform can be found on [our website](#).

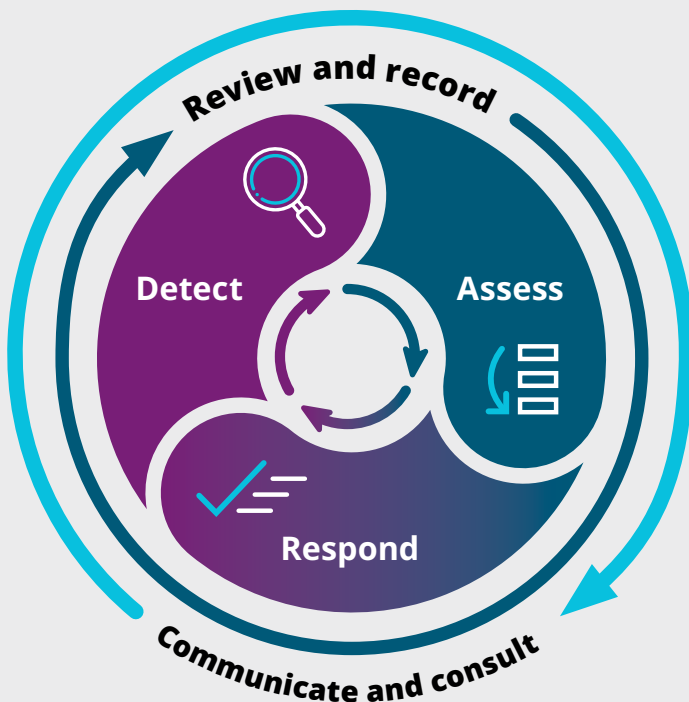


4 Identifying and responding to risk

It is important that providers recognise that they have a responsibility to manage the risks that come with providing aged care to older people. It is always our preference when we detect risks to older people that we work with providers to prevent the risk, and expect providers to put responses in place that will effectively contain and eliminate risk. We expect providers to do this in ways that restore and build the trust of the older people they care for.

Identifying and responding to risk is fundamental to our mission as a regulator to protect and safeguard older people who receive aged care. We do this through a 3-stage risk management cycle, as illustrated below.

Risk management cycle



The three stages of risk management are:

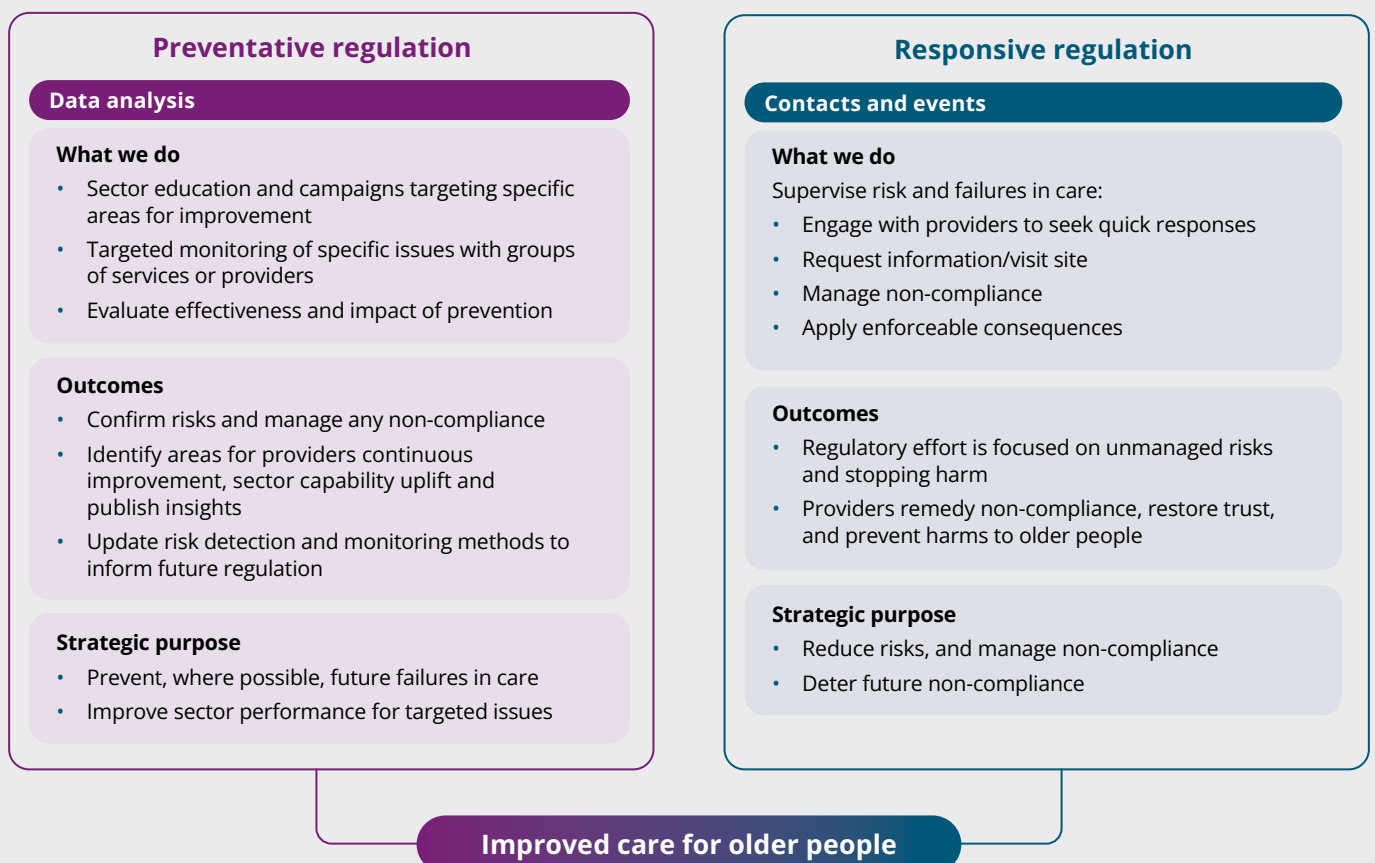
- a. **risk detection**, which is the active process of identifying risk relating to an actual or potential harm. The Commission detects risk through undertaking its functions, gathering intelligence from various sources and analysing this data to identify risk
- b. **risk assessment**, to analyse and evaluate the risk to understand the causes and any gaps in the provider's response (i.e. the likelihood of the risk being well managed), as well as the consequence of the actual or potential harms to older people
- c. **risk response**, to treat underlying causes of the risk and bring the risk to a level of acceptable control.

We are constantly receiving a broad range of information about providers' and workers' performance which we use to detect risks. We call this risk surveillance. We assess risks by analysing that information to ensure that our responses are timely, proportionate and targeted. We respond to risks to older people through our full range of regulatory functions that target risks associated with problematic **sector**, **provider** and **worker** performance and behaviour.

Our risk surveillance approach means that we are actively reviewing new intelligence all the time, and we keep open channels of communication and consultation with key stakeholders throughout the risk management processes.

We assess and respond to risk to support both **preventative** and **responsive** regulation. Our preventative approaches target our resources to prevent harm from occurring, such as targeted education and monitoring where we engage with providers to confirm if a suspected risk is well managed, provide education, and monitor their improvements to prevent the risk occurring. Our responsive approaches are used once we've established risk or non-compliance that requires a response. We look at how providers reduce the impact of the risk, as well as engage with and support older people to restore their trust and confidence in their care. Both approaches are aimed at preventing a harm from occurring, or reoccurring.

Risk surveillance of all providers



4.1 Risk analysis

We are constantly scanning and analysing information to **detect** where harms have occurred and respond quickly when needed. We also use risk profiling and analytics to **predict** where there is high risk of harm in order to intervene early.

The Commission holds and receives a large volume of information about provider performance, worker conduct, and information about older people's experiences of care, on a daily, monthly, quarterly, annual and triannual basis. We analyse this information to inform our priorities and responses to sector, provider and worker risk.

The Commission's risk analysis model

Daily

- Enquiries and feedback
- Complaints
- Workers concerns
- Reportable incidents
- Media

Quarterly

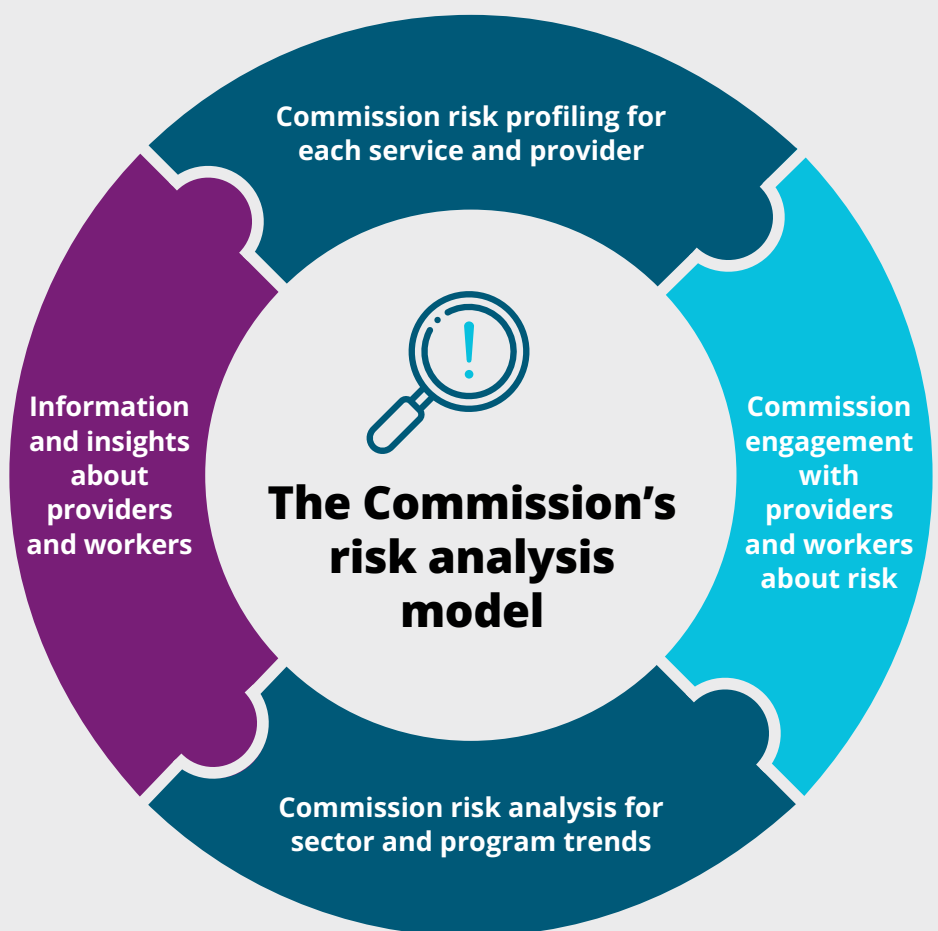
- Financial
- Staffing
- Food and nutrition
- Quality indicators (e.g. pressure injuries, unplanned weight loss, medication management, physical restraint, falls)

Annually

- Financial statements
- Prudential compliance statements
- Consumer experience interviews
- Provider governance and operations information
- Provider governing body statement

As required

- Site audits
- Risk based monitoring
- Material changes
- Referrals from other agencies
- Research and publications



We gather information from:

- **Older people** and their representatives, including interviews, complaints and enquiries, consumer peak bodies, feedback and resident experience surveys
- **Workers** who contact the Commission to make a complaint or give us information, or who are interviewed as part of our regulatory activities
- **Providers** undertaking mandatory reporting, including relating to governance, workforce, finances, food services, quality indicators and serious incidents
- **Regulatory intelligence** that we collect through our own activities including managing complaints and serious incidents, site audits, risk-based monitoring, investigations and managing non-compliance
- **Referrals and information from other agencies**, such as the Department of Health and Aged Care, NDIS Quality and Safeguards Commission and the Australian Health Practitioner Regulation Agency.

4.2 Risk profiling

Through risk profiling we bring together information and intelligence to develop a holistic understanding of service or provider risk in relation to a specific issue, or as a general view of risk about a service or provider.

We use risk profiling in two key ways – to predict risk and inform our preventative regulatory responses, and to assess new information about concerns with a provider's compliance. We use risk profiling to assist us in assessing the likelihood that a provider is managing the risks.

Examples of risk profiling we use include:

- **Characteristics of providers:** When risk profiling providers, we consider their characteristics that are relatively stable and give us a view of their inherent or structural risk. These differ from characteristics that may change more frequently such as complaints, serious incident notifications or regulatory actions. Relatively stable characteristics include size (number of services and consumers), complexity of services provided, location, corporate model, workforce composition and characteristics of older people receiving care from the provider.
- **Infection prevention and control:** We use data about vaccinations, infection prevention and control leads, and influenza and COVID-19 infections to risk profile providers based on their risk of providing inadequate infection prevention and control.
- **Food, nutrition and dining:** We use residents' responses to Resident Experience Survey questions about food, food delivery model data, and Quality Indicator data on unplanned weight loss to risk profile providers based on their risk of poor food, nutrition or dining outcomes.
- **Workforce responsibilities (care minutes and 24/7 registered nurse coverage):** We consider the most significant gaps between required targets alongside other indicators that suggest there is a higher level of risk to residents related to workforce.

- **Financial management:** We analyse information that reflects a provider's ability to meet ongoing financial obligations and to maintain measures required to appropriately deliver services.

Our risk models are constantly reviewed and updated as we learn more about their reliability in predicting risk or harm. We are continuing to invest in our capability to analyse data as well as evaluate outcomes from applying risk profiling.

The Commission uses the insights gained through evaluation to enhance our treatments of sector, provider and worker risks, to develop advice for the sector on performance, and inform policy and program outcomes.



5 Provider supervision

5.1 Provider supervision status

We are refining our operating model to support a supervision approach ahead of the proposed new Aged Care Act. Provider supervision is a Commission-wide approach designed to ensure that all parts of the Commission work in concert to manage provider risk. Providers that are assessed to be high risk will experience a greater intensity of supervision and engagement from the Commission in response to the risks identified.

Provider supervision is also part of the Commission's strategy to improve the delivery of high-quality care by supervising providers in a way that encourages them to address risks and lift their performance. To do this the Commission uses a range of regulatory approaches and tools to monitor if providers are doing the right thing, and will take compliance and enforcement actions to protect older people where we identify serious failures to provide safe care.

All providers will be allocated a supervision status under provider supervision. There are four supervisory statuses which escalate in terms of the intensity of the Commission's intervention in responding to risk. The four levels of supervision, increasing in order of the risk and resourcing, are risk surveillance, targeted, active and heightened supervision. Providers can move to any supervision status at any time based on the level of risk and provider's capacity and willingness to manage that risk. Providers subject to targeted, active or heightened supervision will be aware of this through the Commission's engagement with them.



Risk surveillance

Providers who only require surveillance represent the lowest risk cohort.



Targeted supervision

Targeted supervision in most circumstances will involve the Commission taking regulatory action to manage specific events or issues.



Active supervision

Providers are assigned an active supervision status where high-level risks are identified that are most effectively dealt with at a provider level.



Heightened supervision

Only a small number of providers will be assigned into heightened supervision, representing a cohort that is the highest risk caseload and one the Commission has most concern about.

Risk surveillance

There is ongoing monitoring and risk surveillance of **all** providers all the time to protect and safeguard older people receiving aged care. In the absence of any specific risk or compliance concerns, providers will have a Risk surveillance supervision status.

Targeted supervision

Where a provider is required to take corrective action to manage specific events or issues, and the Commission has confidence in their ability to do this in a timely and appropriate manner, we will engage with the provider and seek the required assurance that the actions have been taken. The provider will have Targeted supervision status. Where the provider has done what is required and there are no other ongoing issues, they may return to a Risk surveillance supervision status. Where they are unable or unwilling to do what is required, or other concerns are identified which increase the level of risk, a provider may move into Active or Heightened supervision.

Active supervision

Where there is a high level of risk driven by either the potential for harm to older people receiving care, or a provider's inability to do what is required, we will actively case manage the provider with regular engagement to ensure that the required actions are being taken. Case managers may use regulatory powers to incentivise the required change in provider behaviour and delivery of required actions to appropriately manage risk and demonstrate compliance.

Heightened supervision

Where there are severe levels of risk to the safety of older people, risk to their ongoing continuity of care, or high levels of public interest, we will actively case coordinate a broader range of stakeholders, including the Department of Health and Aged Care as the Market Steward, to strategically manage these complex risk scenarios and safeguard older people's safety and ongoing access to care. This will often happen when a non-compliant provider is exiting the market through their own accord or due to the Commission's regulatory actions.

The intensity of supervision is based on our understanding of risks potentially posed to older people. To determine a provider's supervision status, we consider:

- risk profiling
- other intelligence we have collected
- the outcomes of regulatory actions, and
- the provider's willingness and capability to address identified risks.

We adjust a provider's supervision status as these factors and their assessed risk changes over time. For example, the supervision status of a provider may increase if they repeatedly fail to comply with the Aged Care Quality Standards and the Commission must take compliance action.

A provider's supervision status can move across the supervision spectrum as new intelligence and information comes to light. Importantly, we are always clearly communicating to the provider that their choices matter and determine their direction of travel up or down the regulatory diamond.

Regulatory response tailored to level of risk



5.2 Monitoring and managing non-compliance

To supervise providers the Commission uses our monitoring and compliance powers through a range of tools. The choice of tools we use is informed by the nature of risk to older people, area of non-compliance, the type of evidence needed, and whether the provider is willing and able to identify and address any risk and non-compliance.

The Commission uses a range of analytical tools to **monitor** providers and understand risk to older people and each provider's compliance with their obligations under the legislation. These are used as part of ongoing risk surveillance, targeted, active or heightened supervision approach and include:

- engagement and requests for information
- risk-based site visits – in response to an event or information which indicates that harm has occurred or is likely to occur, such as a complaint or serious incident
- reviews or targeted prevention – where risk profiling indicates a suspected risk, we are seeking to verify if the risk exists, as well as any realised risks or harm to older people that may have arisen and whether the risk is being managed appropriately.

Where [non-compliance](#) is identified, the Commission manages this by engaging with providers and workers to address our concerns. The Commission uses a case management approach where we work intensively with the provider to:

- ensure a shared understanding of the causes of non-compliance and the actions required to return to compliance
- enable ongoing assessment of the level of risk to older people receiving care
- inform, shape and monitor the provider's remediation delivery, including the provider's open communication and engagement with older people in their care.

If a provider demonstrates that they are unwilling or unable to address risks or non-compliance, the Commission will increase its level of intervention consistent with provider supervision. This includes using our compliance powers to direct and compel the provider's response. This can include:

- **a direction** – which describes the actions to be taken by a provider (and the timeframes within which those actions must be taken) to comply with their responsibilities
- **an enforceable undertaking** – the Commission may accept an enforceable undertaking which indicates that a provider will take action, or refrain from a specific action, to comply with its responsibilities under the Aged Care Act.
- **a non-compliance notice** – which signals to the provider the Commission's intention to impose sanctions with respect to the non-compliance, sets out actions that the provider is required to take to remedy the non-compliance, and gives the provider the opportunity to make submissions prior to the decision-maker deciding to impose one or more sanctions. The Commission may, after considering submissions made by the provider, require the provider to give an undertaking about remedying the non-compliance rather than issuing a sanction.

- **a notice to agree to take certain actions** – which allows the Commission to respond quickly and effectively to a provider’s non-compliance with its aged care responsibilities and to positively direct change and improvement by requiring the provider to take action.
- **an injunction** – where there is an urgent need to compel a course of action from a provider and other actions had failed, this allows the Commission to apply to a court to compel a provider to take or not take a course of action.

Where a matter goes beyond this, such as when non-compliance is serious, systemic or has caused serious harm, or required actions to reduce risk are not taken, a provider may be subject to enforcement powers that will compel swift improvements and deter future non-compliance.



6 Enforcement

The Commission's effectiveness in safeguarding and protecting older people's right to quality aged care depends on our ability to hold high risk providers and workers, executive leadership and boards accountable. When a provider becomes and remains non-compliant, moving to the bottom of the regulatory diamond, they:

- are failing to ensure that their aged care services, behaviours, and practices comply with the legislation, and failing to safeguard older people
- are not taking timely and sufficient action to remedy risk that has significant impacts on older people in their care
- have behaviours that caused foreseeable harm or exposed older people to an unacceptable level of risk due to poor conduct or a serious disregard for legislated obligations.

Where non-compliance has resulted in significant harm to older people, or is serious or systemic in nature, the Commission may take enforcement action. This includes circumstances where a provider or worker has failed to take agreed actions under a supervised [non-compliance](#) management process, or where a breach of the Code of Conduct is determined. Enforcement actions are designed to apply a penalty and enforce a consequence for the non-compliance. Using enforcement actions in the right circumstances deters future non-compliance by all providers and workers by reinforcing the requirement for obligations to be met.

6.1 Enforcement actions

The Commission has a range of enforcement actions we can use, including:

- imposing a ban on a worker that restricts or permanently prevents their participation in the aged care sector
- imposing penalties on providers or workers by issuing infringement notices or commencing civil proceedings in the court
- imposing sanctions on a provider that prevent receipt of further funding or restrict the type of aged care services they can deliver
- referring an offence for criminal prosecution
- revoking a provider's approval to receive funding and deliver aged care

An enforcement action can occur during, following or even without a period of supervision or process of managing non-compliance. Where older people are at risk, the priority will always be on supervising the provider or worker to reduce risk **and** provide continuity in the care of the older person while the non-compliance is resolved.

Enforcement actions will be implemented urgently where they are needed to protect older people receiving care, such as the imposition of banning orders or sanctions. Where the enforcement action serves primarily as a penalty, they will likely be taken following the conclusion of a non-compliance management process.

6.2 Market exit

While the Commission has powers to force a provider to exit the market in situations involving severe non-compliance, the safety of older people is paramount and there can be heightened risk to them where there is a disorderly exit from the market.

In situations where a provider must exit the market, the Commission works with the Department and the provider to support an orderly transfer or closure of services to ensure quality of care is maintained during the transition process.



7 Building sector capability

The Commission shares the same ambition as older people, their families, those working in the sector, and other stakeholders – that every older person enjoys a great aged care experience. We are committed to empowering older people to be active partners in their care and to have the confidence to speak up when things aren't right. We hold ourselves accountable for communicating regulatory expectations, processes and obligations in ways that are clear for older people, providers and workers.

The Commission is applying lessons from our 2023 customer experience project to how we support the sector to be ready for the aged care reforms. We are strengthening our linkages with sector representatives that reflect the diversity of our society and we are co-designing dedicated engagement and communication strategies with First Nations and Culturally and Linguistically Diverse communities.

The Commission is using the sector intelligence available to us to design and target our communication and education program. This includes information on reported quality indicators, financial and governance information as well as complaints, serious incident reporting and other information we gather from our regulatory activities. We focus on responding to issues where we see significant performance gaps across the sector or within groups of providers. A key priority for 2024 is supporting the sector to be ready for the changes that will come with the introduction of the new Aged Care Act and regulatory framework.

It is important to share Commission insights on performance with the sector in ways that can help providers to compare themselves with others, track their own performance and identify opportunities for improvement. We are also committed to publishing information about our own performance, as part of our accountability to the community.

The Commission appreciates the willingness of older people, their supporters, sector stakeholders, providers and workers to engage with us to help us to be a well-informed, responsive regulator that delivers value to the sector through our safeguarding activities. You can find out more by visiting our [Consultation and Engagement Hub](#).

7.1 Using sector engagement to drive capability building

To be an effective regulator, the Commission must understand the regulated community including the realities of delivering aged care services on the ground. To do this we convene different forums (including the [Commission Consultative Forum](#)) and hold regular meetings with provider groups such as the [Aged & Community Care Providers Association](#) (ACCPA) and other organisations that represent providers delivering care to diverse groups of older people.

We regularly develop our education products with providers. We have over 200 members in our [Aged Care Providers and Workers Panel](#) with representatives across residential, home and community care who assist us in guiding the preparation and reviewing education and communication products.

The Commission's capability uplift program in 2024–25 is focused on preparing providers and workers for the implementation of the proposed new Aged Care Act and strengthened Aged Care Quality Standards. We are conscious of the need to improve how we communicate with diverse providers.

We have recently launched projects to consult, co-design and develop a First Nations and a Culturally and Linguistically Diverse communications strategy and resources for providers, workers, older people and communities. The consultation will deliver culturally appropriate, tailored information to explain what the new Aged Care Act and new regulatory model mean in the delivery of care. We have already held a series of targeted roundtables to consult on the resources with First Nations, CALD, Regional and Remote, Home Service and Single Service providers. These conversations have provided rich insights that we are applying to improve our resources.

The Commission released our first draft of resources to support providers to implement the [strengthened Quality Standards](#) for a 3-month public consultation period in early February 2024.

We have heard the sector's strong interest in greater transparency from the Commission and have published our [Draft Audit Methodology](#) which will guide how we will assess performance under the strengthened standards.

Another key area of focus for capability uplift is the governance and leadership capabilities of aged care providers. The popular [Governing for Reform in Aged Care Program](#) was designed to engage aged care CEOs and board members across Australia in a structured, multi-mode learning program aimed at promoting stronger links between the quality and style of governance and leadership, and the quality and safety of the care experience for older people.

7.2 Regulatory campaigns

As well as supervising specific providers, the Commission targets specific sector-wide issues to prevent risks being realised and improve care and services for older people. A regulatory campaign focuses on strategic ‘risk of harm’ issues – those that affect many providers or older people, or issues that exist across a wide segment of the sector. We provide information about sector wide issues on our website.

Campaigns begin by understanding the issues and risks, and engaging with both older people receiving care and providers is important to get this right. We describe the desired behaviours by an aged care provider to deliver the best possible experience of care and outcomes.

Our regulatory campaign then uses a range of responses that are targeted to the problem so that we can prevent, detect and deal with the identified issues.

In 2024 the Commission is focused on key sector-wide risks:

- [Infection prevention and control](#)
- [Food, nutrition, and dining](#)
- [Provider workforce related responsibilities](#)
- [Strengthening governance and practising open disclosure](#)
- [Managing serious incidents](#)

Case Study – Food, Nutrition and Dining (FND) Campaign

A campaign uses a mix of different regulatory actions focused on a particular issue with the objective of supporting providers to lift performance. Our current [Food, Nutrition and Dining \(FND\)](#) campaign includes:

- **risk profiling:** where we test different data and combinations of data to identify those providers and services that most need to strengthen performance and those that are performing strongly. For FND we used unplanned weight loss, resident experience survey responses, food expenditure and complaints data.
- **education:** we work in partnership with experts, older people and providers to develop education resources to help lift capability. Our suite of FND resources is co-designed with older people and providers, and includes online learning modules, videos, fact sheets, posters, checklists, tips and tricks.
- **engagement:** we have established the FND hotline that provides free advisory services to older people and to providers. We have an extensive webinar program which gives providers the opportunity to engage with experts on how to improve their practice.
- **monitoring:** we visit selected services to assess performance and provide advice on how to make improvements where needed. If we find serious issues, we return to the site to undertake a formal quality assessment that can lead to compliance or enforcement outcomes.

- **improving our expertise:** we have established a FND unit staffed by experienced dietitians and speech pathologists who assist our teams to improve knowledge of best practice FND and provide expert advice where needed. We have also engaged a Special Advisor to provide advice on our campaign design and approach
- **evaluation:** testing the efficiency and effectiveness of our campaign activities
- reporting back to the sector on the results of our FND campaign in our [Quarter 3: January – March 2024 Sector Performance Report](#).

We reported back on our campaign on infection prevention and control in our [Quarter 1: July-September 2023 Sector Performance Report](#).

7.3 Publication of information on sector performance

We publish information about provider performance in relation to their responsibilities, giving providers an opportunity to reflect on their performance compared with the broader sector. This information enables providers to understand potential risks in their own services, and to take action to address potential problems early. Examples are:

- Sector performance data which is published quarterly ([Sector Performance page on our website](#))
- [SIRS insights reports](#)
- [Complaints about aged care services report](#).

In addition, the Commission also ensures that the sector can learn from the performance of individual services and providers through:

- service provider reports – performance against the Quality Standards ([Find a report](#))
- regulatory compliance decisions and actions of the Commission ([Non-compliance register](#)).
- the Compliance Rating for residential aged care services which forms part of the [Aged Care Star Rating program on My Aged Care](#).

The Compliance Rating on the [My Aged Care](#) website is based on existing compliance, enforcement and accreditation decisions of the Commission and shows a service's compliance status. The performance of each service is categorised as a star rating out of 5. The compliance rating is one of 4 sub-categories that contribute to a residential service's Overall Star Rating. Information about the Star rating program is available on [My Aged Care](#) and the [Department of Health and Aged Care websites](#).

A summary of each residential service's compliance status against the Quality Standards, as determined by the Commission, is also published on My Aged Care ([Compliance](#)).



8 Regulatory accountability

8.1 Transparency

The Commission must be transparent about how we regulate, what guides our decision making and how we are performing. As with our openness to external scrutiny and our focus on ensuring consistency and fairness in decision making, it is this willingness to publicly share information about our internal operations that will engender trust and confidence.

The Commission publishes a range of information about its operations to ensure that we are compliant with our statutory reporting requirements, are transparent about information we share, and monitor and evaluate our regulatory objectives. This includes:

- our [Annual Report](#) as required under the Aged Care Quality and Safety Commission Act 2018. This report requires an assessment and evaluation of how the Commission's operations during the financial year contributed to the priorities set out in the [annual corporate plan](#)
- our accountabilities to the Minister and to the Parliament, including compliance with the [Public Governance, Performance and Accountability Act 2013](#) and upholding and promoting Australian Public Service values. The PGPA Act and the [Public Governance, Performance and Accountability Rule 2014](#) (PGPA Rule) set out the Australian Government's governance and accountability arrangements for Commonwealth entities. We are required to include performance information in respect of our regulatory functions with reference to the best practice principles in our Corporate Plan, and are also required to reconcile performance outcomes in our Annual Performance Statements with reference to the best practice principles.
- collecting information and data to understand the costs, impact and outcomes of regulation and using this to improve our performance. We seek advice from the [Aged Care Quality and Safety Advisory Council](#), [Risk and Audit Committee](#) and regularly engage with older people, providers and the government agencies that we work with to seek performance insights and drive continuous improvement.
- real time data about how we are tracking with complaints resolutions can now be found on [our homepage](#).

8.2 Integrity

The Commission must always act with integrity if it is to have credibility as the regulator of aged care. As a body that exercises significant powers in relation to providers and workers, and that is entrusted to protect and safeguard older people, it matters that our actions are consistent, fair and transparent.

We underpin our integrity by ensuring that: our decision makers are well supported through policy and procedural guidance and access to expert advice; our risk identification processes are evidence-based and systematised and; our internal review and reconsideration processes for [providers](#), [complainants](#) and [workers](#) are robust (see below for further information).

8.3 External scrutiny

While many of the ways we review our performance are self-initiated, the Commission understands the importance of external scrutiny of our operations. For older people to have confidence and trust in the Commission, they must see that we engage openly and act on these processes.

The Aged Care Quality and Safety Commissioner regularly appears before the [Community Affairs Senate Committee](#), and also responds to and appears before Parliamentary Committees undertaking specific inquiries.

The Commission was the subject of a recent Australian National Audit Office audit which included the implementation of the 24/7 RN (Registered Nurses) and care minutes reform, and the outcomes can be found on the [ANAO's website](#). We also engage with the Commonwealth Ombudsman, both in terms of accessing their guidance on best practice complaint handling and on individual matters where (for example) a complainant has sought a review of our complaint handling process.

The most significant recent example of external scrutiny is the [Independent Capability Review of the Aged Care Quality and Safety Commission](#) conducted by David Tune AO PSM. As acknowledged in the introduction of this Strategy, the findings and recommendations of that review have been highly influential in how the Commission understands its performance and where we are investing to develop our capability.

The [Office of the Inspector-General of Aged Care](#) (OIGAC) is an independent Commonwealth statutory body established in October 2023 to have oversight of the aged care system. It also monitors the Commission to ensure that we are meeting our legislative functions (such as complaints handling) and that we are robust, accountable, and transparent in meeting needs of older people. The Commission signed a [Memorandum of Understanding](#) with the OIGAC in April 2024.



9 Building our regulatory capability

What we expect from the aged care sector, we also expect of ourselves. That is, we need to build our capability to support older people and providers to create a responsive aged care sector where high-quality services are delivered consistently by all providers. To do this, we work to maintain a Commission organisational culture that has shared values and beliefs that guide how we approach our work and interact with each other and with people outside the Commission.

9.1 Responding to the Independent Capability Review

The Capability Review acknowledged that there is much to build on in the Commission to ensure that we continue to meet community expectations about our performance as the aged care regulator. The move to a new Aged Care Act will also provide us with an important opportunity to refocus our regulatory purpose and to boost trust and confidence in the work we do.

The final report of the Capability Review identified key areas for the Commission to address to ensure that we have the internal capability to be a trusted high performing regulator of aged care. To achieve this, we must:

- be more open, transparent and accountable. Share more information and data – on our own performance, but also the performance of providers, and what works, and what the key issues are
- acquire a better understanding of older people's diverse needs and circumstances and their communities, especially First Nations people, culturally and linguistically diverse people, people with dementia, veterans, Lesbian, Gay, Bisexual, Transsexual, Intersex and Queer+ people, and older people living in regional and remote communities
- partner with stakeholders in shaping and delivering our regulatory responsibilities
- be data driven so that our risk-based regulatory vision can be realised.

We take seriously the observation in the Capability Review report that the Commission's internal culture drives what external stakeholders experience.

9.2 Building our capability

Becoming a world class regulator requires a consistent focus on strengthening capabilities.

The Commission continues to invest in building our regulatory capability by ensuring that we are effectively recruiting, retaining and supporting our workforce, that our governance and leadership structures are strong, and that our ICT and business support capabilities are leveraged to effectively undertake our functions.

Central to our success in increasing capability is our investment in our people. The Commission's staff and cultural capability frameworks define the core and technical capabilities required by Commission staff to deliver on our regulatory promise to older people and other stakeholders. These frameworks underpin our recruitment, development and planning processes and systems to ensure a fit-for-purpose workforce. Ongoing refinement of our processes and systems allows more time to be spent on supporting the sector and less time on administration.

To support our workforce as they undertake what can be challenging work, the Commission's Wellbeing Plan addresses four interconnected domains: purpose, mind, energy and environment. Focused activity is underway in each domain which works in combination to increase resilience and adaptability in the workplace. The Commission's most recent APS Staff Census results indicate that the ongoing emphasis on wellbeing and safety is recognised and valued by staff.

Our RAP journey commenced in 2021 and we have increased the number of First Nations staff in the Commission through affirmative measures recruitment and apprentice programs. Our [Diversity & Inclusion Strategy](#), launched in 2024, establishes diversity working groups to ensure that our decision-making is reflective of the diversity and needs of all our people and of older people receiving care.

Work is underway to ensure continuity of core business functions in the Commission in the event of a sustained system outage or other major risks/threats, and planning has commenced to understand new operating requirements when the proposed new Aged Care Act comes into effect. This planning will ensure alignment of delivery of all component systems, related business workflow functions, and related data flow functions required to fulfill Commission responsibilities under the new Act.

Supporting this 'future state', the Commission is pursuing a significant program of work to ensure that the underpinning service and support systems, cyber security, and infrastructure support are building out to support the increased scope of the Commission's regulatory functions. This includes reform of digital governance structures, organisational structures, and associated recruitment of technical personnel to support this.

9.3 Continuous improvement

Just as the Commission expects providers to have strong systems in place to ensure that they are constantly reviewing performance, identifying opportunities and making changes to improve care delivery, we expect the same in terms of our performance as a regulator. We do this through:

- a program of internal auditing activities facilitated by the Commission's Quality Assurance Framework
- the feedback we get from formal complaints about our staff or processes

- reconsiderations of our complaint and regulatory decisions, both internal and external (for example complainant or provider requested, or [Commonwealth Ombudsman](#) inquiries and investigations). We have provided more detail below
- seeking advice from the [Aged Care Quality and Safety Advisory Council](#) and the Commission's Risk and Audit Committee
- feedback from key stakeholders such as older people, providers and other government agencies – see our [Consultation and Engagement Hub](#)
- engagement in external reviews and audits
- engagement with the [Inspector-General of Aged Care](#) and the [First Nations Aged Care Commissioner](#)
- collection of information and data to understand the costs, impact and outcomes of regulation.

9.4 Feedback, complaints, reviews and reconsiderations

Feedback

The Commission actively seeks feedback and facilitates complaints on the Commission's operations to allow the opportunity for continuous improvement, and greater transparency and accountability of the Commission's performance.

The Commission has also established opportunities for receiving, managing and addressing consumer and sector feedback regarding their experiences and interactions with the Commission's processes, products and services. This valuable input serves as a mechanism for the Commission to assess its performance, identify strengths and gaps, escalate operational problems and make continuous improvements in our overall regulatory operations. See [Consumer feedback](#) for further information.

Reviewable decisions

Providers can also ask us to reconsider and review some regulatory decisions. The process is also open to:

- quality assessors whose registration has been cancelled
- those applying to be assessors who have had their registration application refused

For more information, read the [Regulatory Bulletin – Reconsideration of regulatory decisions](#).

Individuals against whom a banning order is made may make an application to the Commissioner to have the decision to make the banning order reconsidered or to have the banning order revoked or varied.

Where an individual is not satisfied with the outcome of that reconsideration application, they may seek a review of the reconsideration decision by the AAT. Where an individual has made an application for reconsideration of a reviewable decision to the Commissioner or a review of a reconsideration decision to the AAT and that application has not yet been finally determined, the Register of Banning Orders will be amended to indicate that such an application has been made but has not yet been determined. Where a banning order is varied, the Register of Banning Orders will be amended to reflect the variation. Where a banning order is revoked or set aside, the entry in the Register of Banning Orders will be removed.

See [Aged Care Register of banning orders](#) for more information.

Complaints reconsideration

If you have lodged a complaint with the Commission and are not happy with a decision we have made about your complaint, you have review rights. Complainants can seek review by the Commissioner of a decision to take no further action or to end a resolution process. Service providers can seek review about a decision to end a resolution process in some situations. See links below for further information:

- [Review rights](#)
- [Right to seek review of complaint decision or Commission's process factsheet](#)

Service complaints

We encourage and welcome feedback about our services. Feedback allows us to address any concerns raised by our stakeholders and to improve the way we work in the future. Anyone can raise a service complaint with us. Service complaints can range in seriousness and cover a range of topics. They can relate to, for example, delay, rudeness, poor communication or the way the Commission conducts its business. Service complaints about us will be dealt with fairly and promptly. When we receive a service complaint, we will respond with information that may include:

- an outline of our complaints process
- expected timeframes
- the progress of your service complaint and reasons for any delay
- your involvement in the process
- the possible or likely outcome.

To read more about giving feedback or making a complaint about the Commission, visit [Feedback about the Commission](#). Alternatively, people can speak with one of our customer contact team on **1800 951 822**.

Complaints about us and the decisions we make can also be reviewed by the [Commonwealth Ombudsman](#). The Commonwealth Ombudsman can also take complaints about any aspect of administration by the Commission but not complaints about our regulatory decision making.

9.5 Governance and leadership

All staff in the Commission play an important role in ensuring that good governance is integral to our everyday actions and decision-making. Governance structures and processes play an important role in ensuring that there is sufficient rigour in our decision-making, with decisions consistently made across the Commission at the right time, by the right people, considering the right information.

Tailored resources ensure that our staff at all levels are supported to understand and effectively contribute to the good governance of the Commission. These include:

- Corporate Governance and Accountability Framework – details the Commission's authority, decision-making structures and controls, governance principles and administrative framework
- Legislative, Regulatory and Policy Framework – explains the parameters for the Commission's decision-making and day-to-day functions by outlining the Commission's external authorising environment and internal policy mechanism
- internal policies – provide direction and guidance on how staff perform their duties
- instruments of delegation – detail the level at which decisions and specific powers and functions can be exercised
- Accountable Authority Instructions – provide instruction on the use of public resources to assist in understanding duties and responsibilities
- Accountability Statements – provide specific guidance regarding the responsibilities of key leaders.



The Aged Care Quality and Safety Commission acknowledges the Traditional Owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to Elders both past and present.

August 2024



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Write
Aged Care Quality and Safety Commission
GPO Box 9819, in your capital city