

# Compliance and Enforcement Policy

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14 July 2021



Australian Government  
Aged Care Quality and Safety Commission

Engage  
Empower  
Safeguard

## Version control

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### Document Location

The Compliance and Enforcement Policy can be accessed from the Aged Care Quality and Safety Commission [website](#).

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## 1. Introduction

Effective enforcement of aged care provider responsibilities under the *Aged Care Act 1997* (Aged Care Act) and its related Principles, the *Aged Care Quality and Safety Commission Act 2018* (Commission Act), the Aged Care Quality and Safety Commission Rules 2018 (Rules) or under its funding agreement with the Australian Government is a critical task for the Aged Care Quality and Safety Commission (Commission). A range of compliance actions are available to the Commission to:

- prompt a provider to comply with its responsibilities
- improve compliance with the law
- deter misconduct
- ensure that grave misconduct meets proportionate consequences.

Effective compliance and enforcement actions are an important part of the broader functions of the Commission that aim to protect and enhance the safety, health, well-being and quality of life of aged care consumers. Visibility of the Commission's actions to address non-compliance is essential for consumers to have confidence and trust in the provision of aged care.

Most aged care providers voluntarily comply with their responsibilities and many go well beyond the minimum responsibilities in delivering aged care services. They, too, should have confidence that providers are held to account when they fail or refuse to comply with their responsibilities.

The Commission is committed to communicating clearly its regulatory intent and approach to compliance and enforcement, and to providing accessible, consistent and clear reporting on enforcement strategies and activities. Of course, it is necessary for regulators to have discretion in determining the most effective response to non-compliance. This policy does not inhibit the Commission from exercising discretion; rather it provides a way to assess whether regulatory action aligns with the Commission's regulatory intent. Ultimately success will be measured by outcomes in terms of increased provider compliance, improved performance and reductions in consumer harm.

The Commission's approach to determining and responding to non-compliance is set out in its legislative framework; the Aged Care Act, the Commission Act and Rules. This policy outlines how the Commission will apply the powers available to it through this framework where a provider has failed or refuses to comply with its aged care responsibilities.

The policy also articulates the Commission's approach to compliance and enforcement as part of the Commission's strategic campaign activities that seek to address sector-wide risks and its role in shaping market behaviour through deterrence, and clearly establishing where the boundaries of acceptable behaviour lie within the law.

Refer to the [Commission's glossary](#)<sup>1</sup> for definitions of key terms.

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<sup>1</sup> <https://www.agedcarequality.gov.au/providers/standards/glossary>

## 2. Compliance and enforcement

The role of the Commission<sup>2</sup> is to:

- protect and enhance the safety, health, well-being and quality of life of aged care consumers
- promote confidence and trust in the provision of aged care
- promote engagement with aged care consumers about the quality of care and services.

The Commission applies the range of functions and powers available under the Commission Act and the Aged Care Act to achieve its objectives, including:

- vetting a person or organisations seeking approval to provide aged care
- educating consumers and providers
- resolving complaints
- monitoring and assessment of performance against the Aged Care Quality Standards (Quality Standards)
- monitoring and assessment of compliance with the Prudential Standards
- monitoring and assessment of compliance with home care provider responsibilities
- responding to reportable incidents under the Serious Incident Response Scheme
- taking compliance and enforcement actions where approved providers do not meet their aged care responsibilities, including monitoring implementation of provider action to address non-compliance or taking further enforceable regulatory actions
- publication of performance data.

These complementary functions work to enable the Commission to understand, predict, and reduce risks in the aged care sector.

This policy outlines the approach the Commission takes to encourage and enforce provider compliance with its aged care responsibilities. The approach outlined in this policy applies to:

- approved providers of:
  - residential care services
  - home care services
  - flexible care services through which short-term restorative care is provided in a residential care setting or in a home care setting
- service providers of other Commonwealth-funded aged care services including:
  - Commonwealth Home Support Programme services – refer to Section 3.4.1 for specific regulatory actions related to this Program
  - National Aboriginal and Torres Strait Islander Flexible Aged Care Program services.

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<sup>2</sup> <https://www.legislation.gov.au/Series/C2018A00149>

Approval to provide subsidised aged care or to receive a grant to provide aged care services comes with many legal responsibilities. The purpose of these responsibilities is to ensure a high-performing market and safe, high quality care for consumers. The Commission monitors and, where necessary, enforces provider compliance with these responsibilities.

We work with providers to encourage not only voluntary compliance but going beyond the minimum standards and striving for best practice within the aged care sector. The compliance and enforcement actions that the Commission takes are designed to:

- respond to non-compliance that poses an immediate and severe risk to the safety, health or well-being of consumers
- hold providers, who have not or are not complying, to account to meet their responsibilities
- ensure providers comply with aged care responsibilities as quickly as possible
- revoke the approval of providers who are no longer suitable to provide aged care
- promote sector-wide compliance through deterrence and clearly establish the boundaries of the law
- assure the community that the government will respond to non-compliance that poses a risk to the safety, health, well-being or quality of life of consumers, and that there are consequences for providers that do not take action to meet quality and safety expectations.

The range of actions the Commission may take include:

- monitoring the compliance of aged care providers
- publishing information about non-compliance or performance
- directing the provider to address areas for improvement in order that it complies
- requiring approved providers to produce documents or information to the Commission
- requiring approved providers to give undertakings to remedy non-compliance
- accepting and enforcing enforceable undertakings from providers
- issuing notices requiring approved providers to take certain actions to protect consumers
- issuing an infringement notice to a provider
- applying to a court for an injunction or an order to enforce a civil penalty
- imposing sanctions on approved providers
- suspending or revoking the approval of approved providers.

The action we may take where a provider demonstrates it is willing and able to comply may be different from action taken where a provider's non-compliance is deliberate and/or calls into question its suitability to provide care, especially where the provider's actions place consumers at risk of harm.

## 3. Principles

Our compliance approach is underpinned by the following principles:

- **Risk-based approach:** We identify, evaluate and monitor systemic or sector-wide risks as well as individual provider risks to ensure our activities focus on the areas of greatest potential harm to the safety, health, well-being and quality of life of aged care consumers; prioritise risk-based assessments based on consequence of failure in care and likelihood of managing harm; and plan and conduct activities to mitigate risk.
- **Proportionate response:** Our responses will be proportionate to the risk posed by non-compliance to the safety, health, well-being and quality of life of aged care consumers, with a focus on assessing all available information and responding in a way that is reasonable and appropriate to the context, conduct and culture of the organisations we regulate.
- **Fair decisions:** We act impartially and without bias, including in our decision-making.
- **Procedural fairness:** We give parties affected by our decisions an opportunity to respond to adverse information. If we identify evidence of non-compliance, the provider can provide a response. However, we will take immediate action – including prior to giving the provider an opportunity to respond – if consumers face immediate and severe risk.
- **Transparent and accountable:** We make information about our policies and decision-making frameworks publicly available. We communicate clearly with providers about decisions that affect them, and we publish information about our regulatory actions.
- **Act consistently:** We are consistent in our approach to decision making and our compliance activities. Decisions may be made at different points in time, and different actions applied under different provisions, and with different evidence available. However, we will apply consistent processes and consistently assess and respond to risk.
- **Timely response:** We aim to make decisions and undertake our compliance action in a timely way. By applying a risk-based approach we can identify cases that are more serious, elements that require a more rapid response, and elements which are complex and may take longer to resolve.

### 3.1 Detecting non-compliance

The Commission uses a range of regulatory tools to monitor compliance and detect possible non-compliance. The Commission is not restricted to evidence from a particular source and should have regard to all relevant available evidence to allow it to make the particular decision. Evidence may include information from:

- performance assessments against the Quality Standards undertaken during site audits, quality audits, review audits or assessment contacts
- assessment contacts for the purpose of monitoring quality of care and services
- monitoring and investigating providers' compliance
- complaints
- consumer feedback and other information
- providers, following requests for further information
- reportable incidents

- provider self-reporting, including annual prudential compliance statements
- analysis of information including financial records and reports
- other intelligence, including referrals from other agencies
- publicly available information such as news articles or reports.

The decision-maker is responsible for determining all material questions of fact and basing each finding of fact on logically supporting material. The question to be decided is whether, based on logically supporting material, the decision-maker is reasonably satisfied that the provider has not complied or is not complying with one or more of its responsibilities.

When potential non-compliance is identified, there may not initially be enough evidence to determine whether there is non-compliance, the extent of the non-compliance, or the appropriate compliance response. If required, further information may be obtained by:

- communication with the provider to discuss the identified concerns relating to a service or services
- a formal request to the provider for further information on a matter (this may be under the Commission Act or Aged Care Act)
- issuing a notice to a person under s74GA of the Commission Act requiring the production of information or documents
- additional regulatory activities to assess and monitor compliance
- a formal investigation to assess evidence for further action.

Where additional regulatory activities are used to obtain further information, these may be conducted as site visits with provider consent to entry and provision of information. The Commission may use monitoring or investigation powers to conduct site visits with consent, or without consent (by warrant) where deemed necessary.

### 3.2 Determining non-compliance

Responsibilities of approved providers are outlined in Chapter 4 of the Aged Care Act; the breach of which effectively triggers the Commission's compliance functions under Part 7B of the Commission Act and specified enforcement powers from the *Regulatory Powers (Standard Provisions) Act 2014* under Part 8A. Before taking compliance action, the Commission must be satisfied that the provider has failed or is failing to comply with one or more of its responsibilities<sup>3</sup>. A finding of non-compliance is a finding of fact that may be established by the existence of relevant information. Based on this information, the Commission has broad discretion to exercise its powers to take regulatory action if it is satisfied that non-compliance has occurred, is occurring, or may be occurring in the case of non-compliance with regard to incident management.

The Commission is not restricted to the consideration of any source or type of evidence in making a decision that a provider has not complied or is not complying with its responsibilities.

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<sup>3</sup> Or the Commission is aware of information that suggests that an approved provider may not be complying with incident management provisions.



The Commission applies good administrative decision-making to consider whether there is sufficient, relevant and reliable evidence to satisfy the Commission that a provider has failed, or is failing, to comply with its responsibilities. This requires the Commission to:

- identify which responsibilities the provider has or is failing to comply with
- assess the available information or evidence
- in circumstances other than where immediate and severe risk has been identified, give the provider the opportunity to respond to information adverse to their interests
- provide reasons for making the finding.

### 3.3 Determining a response to non-compliance

In determining the response to non-compliance, the Commission must take into account all relevant considerations in making an administrative decision, having regard to the subject matter, scope and purpose of the relevant legislation (Aged Care Act, Commission Act and the Rules) and not be guided by irrelevant considerations.

The Commission also considers the evidence in light of:

- harm to the safety, health, well-being and quality of life of consumers, consequence of failure in terms of the potential effect of the provider's actions on consumers through the management and delivery of care and services
- where relevant, trust of the provider (likelihood of managing harm) based on the extent to which the provider demonstrates effective leadership and governance to prevent and manage consumer risks, has a history of providing quality and safe care, monitors its own effectiveness and solves its quality problems.

The response to non-compliance will be appropriate to the level of severity and immediacy of the risk to consumers and will consider the most effective way to ensure that the provider complies with its responsibilities in a timely manner. The regulatory response may include one or more of the available regulatory or enforceable actions.

This approach is often represented in a regulatory pyramid with co-operative and persuasive approaches at its base and more specifically targeted and interventionist regulatory tools at the top. The Commission's Regulatory Pyramid is depicted in **Figure 1: The Commission's regulatory pyramid** (below). The diagram summarises the regulatory tools available to the Commission and places our powers within the context of the broader regulatory tools in aged care.

The type of action the Commission may take is also dependent on the provider's compliance posture as outlined in the Regulatory Pyramid. For example, if a provider of a service demonstrates it is willing and able to comply and to take all reasonable steps to do so, then the action it will face will be different from action taken for a provider that cuts corners on quality and safety or deliberately avoids compliance obligations and, perhaps, places consumers at risk of harm.

The regulatory responses to non-compliance that the Commission applies are illustrated in **Figure 2: Risk-Based Proportionate Regulatory Responses** (below).

Further information of how the Commission decides the appropriate regulatory response in dealing with non-compliance is provided at **Attachment A: Regulatory management** following non-compliance.

**Figure 1: The Commission’s regulatory pyramid**

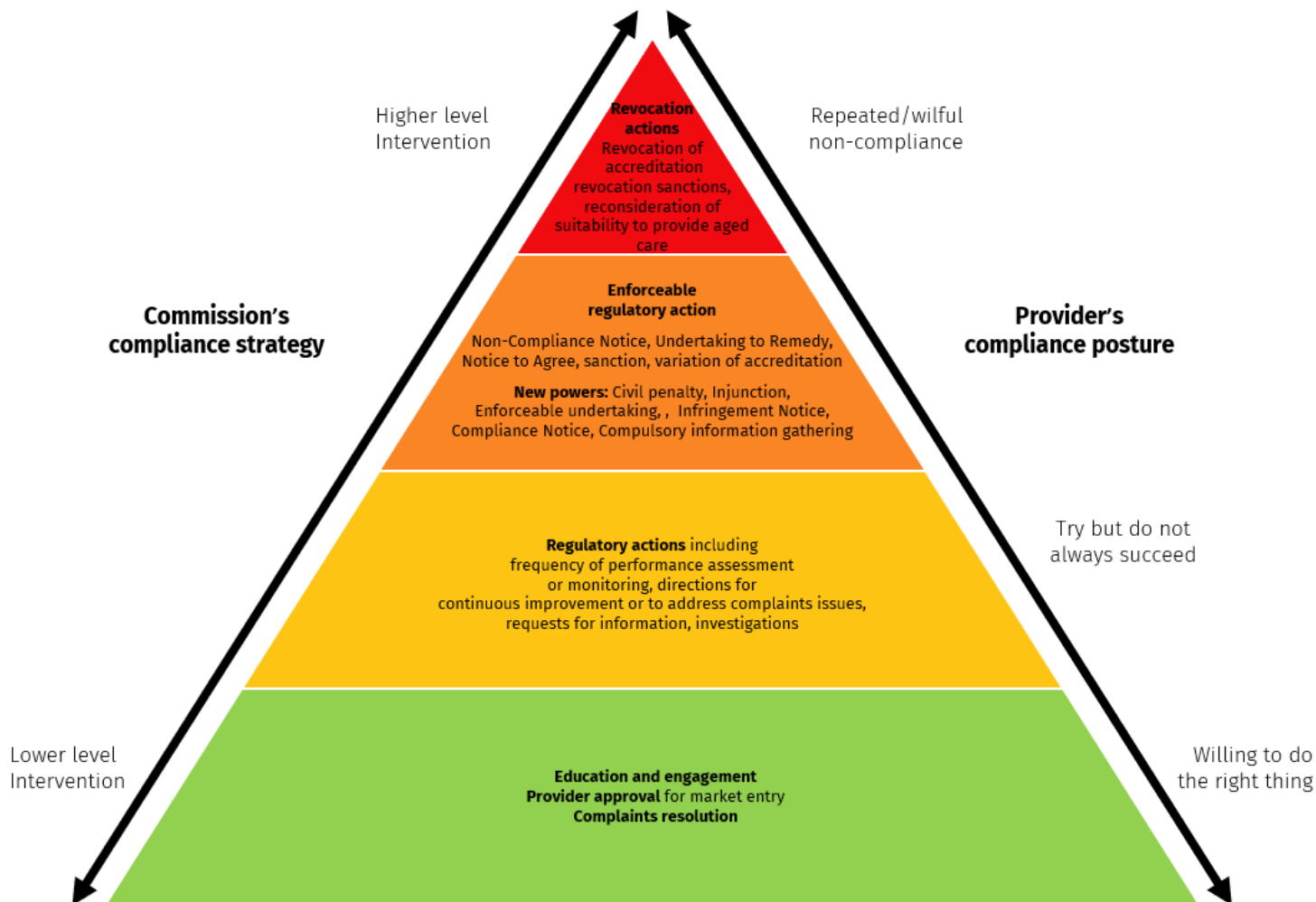
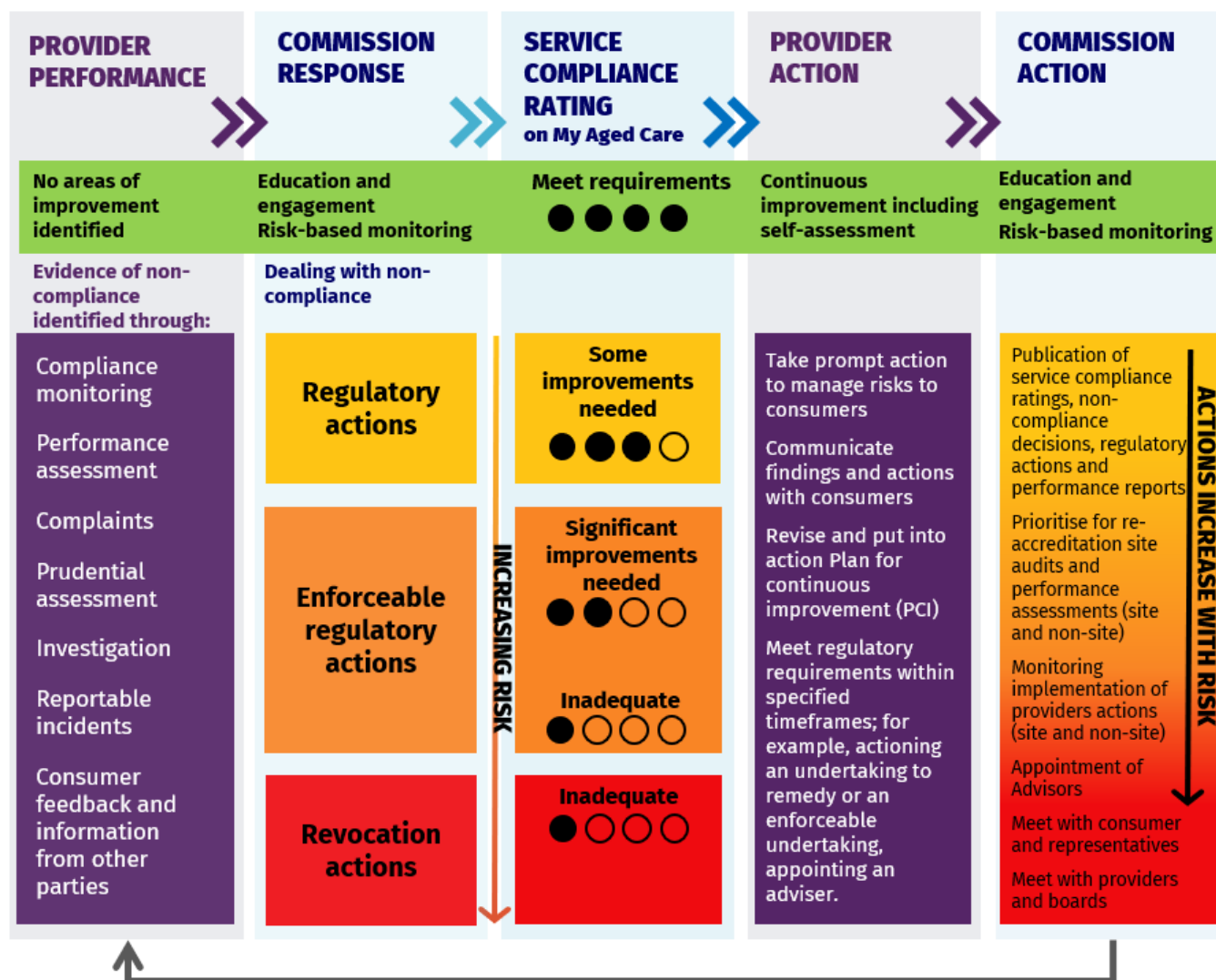


Figure 2: Risk-Based Proportionate Regulatory Responses



### 3.3.1 Systemic non-compliance

When there is evidence of a high impact and high prevalence risk or systemic non-compliance with a particular responsibility, the Commission can take a targeted approach to compliance and enforcement. This may be as a result of systemic non-compliance within the operations of a provider organisation (e.g. multiple services operated by the provider organisation are non-compliant with a particular responsibility or across various responsibilities) or it may be a trend identified across the broader sector.

The response to systemic non-compliance within a provider organisation will involve a targeted response with that provider in accordance with this policy. The Commission will determine which of its regulatory tools is the appropriate targeted response, including consideration of the enforceable regulatory actions available from 1 April 2021.

For example, a provider can voluntarily offer an enforceable undertaking to the Commission, agreeing to take specified action or refrain from taking specified action to address non-compliance with its responsibilities at one or more of its services. The Commission will decide whether it will accept the undertaking, giving consideration to whether there is a clear and timely pathway for the organisation to

ensure compliance with its responsibilities and that there is no immediate or significant risk of harm to consumers. Once accepted, the Commission can enforce the undertaking in court if necessary.

The response to sector-wide risks is likely to involve a coordinated approach to:

- communicate with consumers and providers about our concerns
- provide information and education to help providers mitigate the identified risks
- undertake investigations of providers
- follow up individual cases of non-compliance.

The Commission may also take a strategic campaign approach to sector improvement that can more effectively target resources to educate, deter non-compliance, hold providers to account, and enforce behaviour change as necessary. Campaign activities can involve other stakeholders and focus on certain types of potential harms, such as the inappropriate use of restrictive practices. This means adopting a more proactive planned approach and taking a range of complementary actions, including focusing compliance monitoring in a particular area to prevent consumer harm.

### 3.3.2 *Non-compliance with reporting obligations*

Providers have responsibilities under the Aged Care Act and associated Principles to report certain information to the Commission. This includes providing statements on financial and prudential matters, submitting data required under the Quality Indicator Program and making reports under the Serious Incident Response Scheme.

Where a provider fails to meet its reporting obligations, the Commission will consider a range of escalating regulatory actions. Depending on the nature and extent of the non-compliance, this may involve engaging with a provider via telephone/email, issuing a notice requiring the production of information, or taking enforceable regulatory action.

The Commission maintains a record of a provider's performance with its reporting requirements. This is considered in conjunction with other performance information, including quality of care, to determine the provider's overall risk profile and inform the Commission's response to the non-compliance issue(s). The approach taken will be proportionate and risk-based in accordance with this policy.

The Commission considers factors such as:

- the frequency and timeframe of the non-reporting
- the consequences of the non-reporting in relation to the risk of harm to consumers
- whether the provider has advised the Commission or the Department of Health (where relevant) of the reporting delay, provided a reasonable explanation for the delay and has a reasonable plan to comply with the requirement and ensure ongoing compliance.

### 3.4 *Dealing with provider non-compliance*

When responding to non-compliance by providers, the Commission takes into account all relevant considerations having regard to the scope and purpose of the Aged Care Act, Commission Act and the Rules, the risk to the safety, health, well-being and quality of life of consumers, and the extent to which the provider:

- has the appropriate leadership, governance and practices to prevent and manage consumer risks
- has a history of providing quality and safe care
- monitors its own effectiveness
- solves its quality problems.

As illustrated in **Figure 2: Risk-Based Proportionate Regulatory Responses** (above), the approach taken by the Commission will be proportionate and risk-based in accordance with this policy. For example, if a provider of a service demonstrates they are willing and able to comply and to take all reasonable steps to do so, the compliance and enforcement response will be different from action taken for a provider that is indifferent to providing quality and safe care, or deliberately avoids compliance obligations and may be placing consumers at risk of harm.

### 3.4.1 *Regulatory action*

Regulatory action may be considered where risk to consumers is assessed as low to medium. This approach reflects the level of trust and confidence the Commission has in the provider's motivation and capacity to manage the risk and rectify non-compliance. It signals to the provider where there has been a failure to meet responsibilities and encourages the provider to rectify the non-compliance and take action to sustain improvements.

#### **Directions**

A direction may be issued to a provider where the Commission is satisfied that the provider is not meeting its responsibilities. The direction will describe the actions to be taken by the provider (and the timeframes within which those actions must be taken) in order to comply with the Aged Care Act and the Rules or the Comprehensive Grant Agreement. If the provider fails to comply with this direction, compliance action may be taken against the provider.

For example, where there is non-compliance with the Quality Standards, the Commission may issue to the provider a direction to revise a plan for continuous improvement. If the Commission is not satisfied that improvements are being made to meet the Quality Standards as outlined in the plan for continuous improvement, then the Commission may escalate its enforceable regulatory action.

Directions are also available to the Commission when undertaking a complaints resolution process. If the Commission is concerned that a provider is not complying with its responsibilities, it will notify them through a Notice of Intention to Give Directions of the Commission's concerns and provide them with an opportunity to respond to those concerns. If a provider does not respond or does not satisfy the Commission that it is compliant with its responsibilities, the Commission may then issue the provider with directions.

#### **Requests for information**

Providers may be requested to provide any information or documents relating to the non-compliance such as: information about the measures taken to remedy the issue(s); self-assessments; financial reports or statements; and policies and procedures.

## No Immediate Action

When a provider demonstrates that its non-compliance has been remedied, the Commission may decide that no immediate action will be taken in respect of that non-compliance. This will be communicated to the provider. However, a provider's record of non-compliance may be used by the Commission as part of its ongoing regulatory functions under the Commission Act. The record continues to be considered as part of the Commission's risk profiling of providers and services, assessment of risks to the delivery of quality and safe care for consumers on a case by case basis, and the prioritisation and scope of monitoring and performance assessment activities.

## Other Commonwealth Funded Aged Care programs

Where the Commission finds that a provider of a National Aboriginal and Torres Strait Islander Flexible Aged Care Program service or Commonwealth Home Support Programme service is non-compliant with its funding agreement, its non-compliance may be reported to the Department of Health (and the Department of Social Services Community Grants Hub). The Department of Health may take action pursuant to the agreement, which may include suspending or reducing grant funding.

### 3.4.2 Enforceable regulatory actions

In cases where the risk to consumers is assessed as medium to severe, or where a provider has failed to remedy non-compliance following regulatory action, the Commission may respond with enforceable regulatory action. This level of regulation reflects the Commission's reduced confidence in the provider's motivation or capacity to address the non-compliance.

A range of tools is available to the Commission. The enforceable regulatory actions to be taken will be determined on a case by case basis, taking into account a range of factors, including:

- the nature of the non-compliance (minor or serious)
- the likelihood of further harm to the safety, health, well-being and quality of life of consumers
- the likelihood of the provider taking steps to minimise harm to consumers and implement actions to ensure compliance.

Enforceable regulatory action is intended to oblige the provider to take action to address quality and safety risks and to comply with its responsibilities as quickly as possible. Enforceable regulatory action also acts to deter the provider from future non-compliance. Where necessary, the Commission may also undertake orderly removal of the provider from the sector.

## Compulsory information gathering powers

The Commission may issue a provider with a written notice requiring the provider to give the Commission specified information or documents required for the performance of the Commission's statutory functions, including dealing with non-compliance. The notice will indicate a reasonable time period in which the documents or information are to be produced. If the provider fails to comply with the notice, the provider may be subject to an offence of strict liability punishable through the imposition of penalty units.

## Compliance notice

There are two types of compliance notices: an Incident Management Compliance Notice (IMCN) or a Restrictive Practices Compliance Notice (RPCN). The Commission may give a written compliance notice to an approved provider, where the Commission:

- is satisfied that a provider is not complying with the incident management or restrictive practices responsibilities within the Aged Care Act, or
- is aware of information that suggests that the provider may not be complying with the incident management or restrictive practices responsibilities within the Aged Care Act.

A compliance notice compels the provider to address the actual or possible non-compliance and will outline any action that the provider must take, or refrain from taking, within a reasonable time period.

The provider may be required to provide evidence of compliance to the Commission. Failure to comply with the notice within the specified time period may result in the imposition of a civil penalty (by the court) or sanctions. The Commission may decide to vary or revoke the compliance notice if appropriate to do so, and will consider any submissions from the provider in making this decision.

Unlike other enforceable regulatory actions, the Commission does not need to reach the same level of satisfaction that non-compliance has occurred or is occurring, before taking action. Specifically, where the Commission becomes aware that an approved provider may not be complying with its incident management or restrictive practices responsibilities under Chapter 4 of the Aged Care Act, the Commission can issue this notice to specify action/s a provider must take or refrain from taking, to mitigate risk of harm to consumers.

This type of compliance notice may be used where there is a risk of harm to consumers and the provider's response is insufficient at the time of the notice. The compliance notice is designed to elicit an immediate and proactive response outside the Non-Compliance Notice and sanctions pathway, however provider compliance with either an IMCN or a RPCN will be considered in deciding whether to impose sanctions.

## Variation to reduce period of residential service accreditation

Accreditation against the Quality Standards is required of all Commonwealth-funded residential aged care services. Accreditation provides a different regulatory lever to promote continuous improvement and high quality care. Where the Commission is not satisfied that an accredited residential aged care service is meeting the Quality Standards and has low confidence in the approved provider's commitment to sustained continuous improvement with respect to that service, the Commission may decide to vary or reduce the period of accreditation for the aged care service. This may occur where the service is found to have significant non-compliance with the Quality Standards.

## Non-Compliance Notice

A Non-Compliance Notice may be issued to the provider if the Commission is satisfied the provider is or has been non-compliant with one or more of its responsibilities under the Aged Care Act, but that the non-compliance does not pose an immediate and severe risk to the safety, health and well-being of consumers. This notice signals to the provider the Commission's intention to impose sanctions with respect to the non-compliance, sets out actions 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, or decide to impose one or more sanctions on the provider.

### **Requirement to give an undertaking about remedying non-compliance**

If the Commission is satisfied with the provider's response to a Non-Compliance Notice, for example the response outlines the proposed action to remedy the non-compliance or sets out an acceptable reason for the non-compliance, a Notice of Requirement to Give an Undertaking about Remedying the Non-Compliance (referred to as a Notice to Remedy) may be issued to the provider. This requires the provider to give to the Commission within 14 days after receiving the notice an Undertaking to Remedy the non-compliance referred to in the Non-Compliance Notice.

An Undertaking to Remedy must set out:

- what action the provider proposes to take to remedy the non-compliance
- the period in which the action is to be taken.

Failure to comply with the undertaking may result in a sanction being imposed or a Notice of Requirement to Agree to Certain Matters being issued.

### **Requirement to Agree to Certain Matters**

In cases where the risk to consumers is assessed as high to severe, the Commission may consider revoking the provider's approval to deliver aged care through the revocation sanction. Before taking this step, the Commission may first issue the provider with a Notice of Requirement to Agree to Certain Matters (referred to as a Notice to Agree). This may occur where the Commission is satisfied that:

- the provider's non-compliance poses an immediate and severe risk to the safety, health and well-being of consumers
- the provider made submissions in response to a non-compliance notice that are unsatisfactory
- the provider has failed to give an undertaking to remedy its non-compliance when required to do so
- the provider has failed to comply with an undertaking to remedy its non-compliance.

A Notice to Agree 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.

A Notice to Agree sets out actions a provider is required to take and informs the provider that if the provider does not agree to do those specified actions within necessary timeframes in accordance with the notice, its approval to provide Commonwealth-funded aged care will be revoked.

Examples of the actions the Commission can require a provider to agree to include:

- the appointment of an eligible adviser to assist the provider to comply with its responsibilities
- specific training for staff.

If the provider does not agree to do those specified actions in the notice, the Commission will impose the revocation sanction on the provider in relation to the non-compliance.



## Infringement notice

If the Commission has reasonable grounds to believe that a provider has contravened a specified civil penalty provision or a specified offence provision in the Aged Care Act or the Commission Act, the Commission may issue an infringement notice within 12 months after the day on which the alleged contravention occurred. The infringement notice will include details of the provider's alleged contravention and the amount payable. The provider will then be required to either pay the amount specified in the notice, or challenge the notice in court and seek to have it set aside. Infringement notices may be used for isolated or non-systemic contraventions where there is no immediate or significant risk of harm to consumers, and where issuing the infringement notice is likely to result in positive change.

The following are subject to infringement notices:

Provision	Maximum penalty units
Failing to comply with a written notice to produce information or documents Offence under s74GA Commission Act	30 units
Failing to comply with requests for information regarding provider suitability and financial matters, including in relation to refundable accommodation deposits and accommodation bonds Offences under sections 9-2, 9-3A and 9-3B of the Aged Care Act	30 units
Civil penalty provisions	See below

### What is a penalty unit?

A penalty unit is the base amount used to calculate the monetary penalty payable for a contravention of an offence or a civil penalty provision.

The maximum penalty units (as set out in the table) applicable to each provision demonstrate the seriousness of the breach/contravention. Where the breach is by a body corporate, such as a provider organisation, the maximum penalty payable is 5 times the prescribed penalty units. For example, one penalty unit currently equals \$222, so the maximum penalty for a failure to comply with a section 9-2 notice is  $5 \times 30$  (penalty units)  $\times$  \$222 = \$33,300 (as at April 2021).

The penalty unit amount is subject to regular indexation under section s4AA of the *Crimes Act 1914*.

## Enforceable undertaking

If the Commission and a provider reach agreement on a specified course of action to address any non-compliance, the Commission may accept an enforceable undertaking from the provider. The undertaking may indicate that a provider will take action to comply with its responsibilities under the Aged Care Act, or it will refrain from a specific action or it will take action to ensure that it does not contravene its responsibilities under the Aged Care Act.

The provider may seek to withdraw or vary an undertaking at any time (with the Commission's consent). Alternatively, the Commission may cancel the undertaking through written notice to the provider.

If the Commission considers that the provider has breached the undertaking, the Commission may apply to a relevant court to enforce the terms of the undertaking. An enforceable undertaking may be used when:

- the provider is willing and able to take steps to address the non-compliance
- a clear and timely pathway for ensuring compliance is included in the undertaking
- there is no immediate or significant risk of harm to consumers.

## Injunction

Where a provider has engaged in, is engaging in, or is proposing to engage in conduct contravening its responsibilities under the Aged Care Act, the Commission may obtain an injunction through an application to a relevant court.

The injunction granted by the court may restrict the provider from engaging in the conduct and/or, if necessary, require them to do a specific thing. Should the provider refuse to comply with the injunction, the Commission may apply to the court to seek a further order directing the provider to comply with the injunction, and for the court to supervise the provider's compliance with the order if necessary.

An injunction may be used when:

- immediate court-enforced action is needed to respond to significant non-compliance by a provider with its responsibilities, where consumers are at risk of harm
- a provider has failed to respond to other regulatory action, and their action or inaction is causing or placing consumers at risk of harm.

## Civil penalties

A civil penalty is a monetary penalty payable to the Commonwealth. Civil penalties are not criminal matters and do not result in conviction of an offence. In the case of a contravention of a specific civil penalty provision in the Commission Act or Aged Care Act, the Commission may apply to a relevant court to impose a civil penalty on an approved provider. The penalty may be of such value as deemed appropriate by the court, up to the maximum penalty specified by the relevant provision that has been contravened, as set out below:

Civil penalty provision	Maximum penalty units
Victimising/causing detriment to a person who has disclosed that they suspect a reportable incident has occurred (discloser) <i>s54-6(1) Aged Care Act</i>	500 units
Threatening to cause detriment to a discloser where it is intended to cause fear (or being reckless as to the fear caused) <i>S54-6(2) Aged Care Act</i>	500 units
Failure to comply with an Incident Management Compliance Notice <i>S74EE(3) Commission Act</i>	60 units
Failure to comply with a Restrictive Practices Compliance Notice <i>S74EE(3) Commission Act</i>	60 units

The Commission may apply to a court for a civil penalty order to be imposed when:

- a court-supervised order is needed to respond to significant non-compliance by a provider with its anti-victimisation and incident management responsibilities, where consumers or others are at risk of harm, or
- a provider has failed to respond to other regulatory actions designed to elicit positive change regarding these responsibilities.

### **Sanctions imposed**

A sanction is imposed on a provider for non-compliance with its aged care responsibilities. Sanctions require the provider to remedy its non-compliance promptly and are intended to protect consumers – both future and present – and compel the provider to take action to implement changes and sustain compliance.

The Commission may impose one or more sanctions on the provider if the Commission is satisfied the provider has not complied, or is not complying, with its aged care responsibilities, and it is appropriate to impose those sanctions on the provider.

In deciding whether it is appropriate to impose sanctions, the Commission is required to consider the following matters:

- whether non-compliance threatens the health, welfare or interests of current consumers or would threaten the health, welfare or interests of future consumers (this is a paramount consideration)
- the nature of the non-compliance (minor or serious)
- whether non-compliance has occurred previously, and if so, how many times
- whether the provider has complied with an Undertaking to Remedy the non-compliance (if relevant)
- whether the provider has complied with a Notice to Agree (if relevant)
- desirability of deterring future non-compliance.

Where there is an immediate and severe risk to the safety, health or well-being of consumers as a result of the provider's non-compliance, the Commission may issue a Notice of Decision to Impose Sanctions without having issued a Non-Compliance Notice. In these circumstances, the Commission is not required to provide procedural fairness to the provider due to the immediate and severe risk to consumers. This is because the Commission Act dispenses the requirement for procedural fairness that can be afforded to the provider in these circumstances.

The Commission Act sets out the sanctions that can be imposed on approved providers. The following are some of the kinds of sanctions that can be imposed:

- revoking or suspending approval to be a provider of aged care services
- restricting the payment of subsidies under the Aged Care Act (i.e. the provider is not eligible to receive funding for new care recipients for the period of the sanction). This is one of the most common sanctions imposed on providers
- restricting approval to existing services or places
- revoking or suspending the existing allocation of places

- varying the conditions of approval for allocated places
- prohibiting the further allocation of places or the granting of approval for extra service status
- revoking or suspending extra service status or certification
- prohibiting the charging of accommodation charges or accommodation payments
- if the provider has charged an excessive accommodation payment or accommodation contribution, requiring the provider to refund the excess with interest
- if the provider has not refunded a refundable deposit balance, an accommodation bond balance, or an entry contribution balance as required, requiring the provider to do so (with interest)
- restricting, for a period, the use of a refundable deposit balance or an entry contribution balance paid to the approved provider to one or more permitted uses
- requiring repayment of grants.

The Commission may both require a provider to take certain actions and also impose sanctions where it is deemed appropriate and proportionate in order to address the non-compliance. For example:

- where there is an immediate and severe risk of harm to current and future consumers, and the provider has not demonstrated effective leadership and governance to manage those risks, the Commission may:
  - require the provider to agree to appoint an independent adviser through a Notice of Requirement to Agree to Certain Matters (desired outcome is to improve provider governance)
  - impose a sanction to restrict the payment of subsidies (i.e. the provider is not eligible to receive funding for new care recipients for the period of the sanction, with the desired outcome is to mitigate risk of harm).
- following an investigation that identifies immediate and severe risk to consumers through a repeated failure to report incidents involving unreasonable use of force or failure to use restrictive practices as specified in the Aged Care Act and Principles, the Commission may:
  - issue an Incident Management Compliance Notice requiring the provider to improve its incident reporting, management and prevention processes (desired outcome is to prompt quick action in relation to incident management obligations)
  - issue a Restrictive Practices Compliance Notice requiring the provider to cease or reduce use of restrictive practices or requiring the provider to cease or reduce inappropriate application of emergency use restrictive practices
  - impose a sanction restricting the payment of subsidies (i.e. the provider is not eligible to receive funding for new care recipients for the period of the sanction), with the desired outcome is to mitigate risk of harm until remedial actions have been effectively implemented.

### 3.4.3 *Revocation actions*

In cases of serious non-compliance (i.e. where the risk to consumers is severe, or where a provider has failed to remedy non-compliance, or the provider is no longer suitable to provide aged care) the Commission may respond by revoking accreditation of a residential aged care service or revoking provider approval to provide aged care. This may occur through a sanction, or through reconsideration of the provider's suitability to deliver aged care. This level of regulation reflects a complete lack of trust in the provider's suitability to provide care.

#### **Revocation of residential service accreditation**

Where the provider of an accredited residential aged care service is found to have significant non-compliance with the Quality Standards or the Commission has low confidence in the approved provider's commitment to continuous improvement with respect to that service, the Commission may decide not to re-accredit a residential aged care service, accredit the service for a shorter or varied period or to revoke accreditation. Where the Commission decides not to re-accredit a residential aged care service or to revoke accreditation, a provider may apply for re-accreditation of a previously accredited service and will be required to undergo a site audit and demonstrate that the service is meeting the Quality Standards.

#### **Revocation sanction imposed**

Where a provider's non-compliance is particularly serious (e.g. systematic, repeated, wilful or criminal) the Commission may expedite the provider's exit from the sector through issuing a revocation sanction.

#### **Reconsideration of suitability to provide aged care**

In managing non-compliance, the Commission may consider the provider's suitability to be an approved provider. The consequence of revocation is cessation of Commonwealth subsidies for the provision of care and services. The Commission Act sets out the matters that must be considered in relation to the provider's suitability as an approved provider. Before deciding to revoke the approval, the Commission must:

- notify the provider that revocation is being considered
- set out the reasons for considering revocation
- invite the provider to make a submission
- advise the provider of when any revocation may take effect if no submission is made within a specified period.

### 3.5 **Managing non-compliance**

The Commission monitors how a provider responds to compliance and enforcement action. Where there is non-compliance with a provider's responsibilities, the Commission develops a response plan setting out planned activities that will be undertaken by the Commission to manage and monitor implementation of required actions by the provider of the service to ensure compliance.

The form and frequency of monitoring will depend on the nature of the non-compliance, the level of risk to consumers and the willingness and assessed capacity of the provider to implement actions to ensure compliance with its responsibilities.

### **Provider action**

The Commission expects providers to focus on addressing areas of non-compliance to ensure that required standards of care and responsibilities as a provider are met. This includes providers:

- taking prompt action to manage risks to consumers and address non-compliance
- communicating findings with consumers
- revising their plan for continuous improvement and demonstrating a commitment to sustained compliance
- meeting regulatory requirements within specified timeframes, for example, by actioning and implementing a revised plan for continuous improvement or undertaking to remedy, or appointing an adviser
- monitoring and evaluating outcomes for consumers.

### **Appointment of an adviser**

A Notice to Agree may require an approved provider to appoint an adviser to protect and enhance the safety and well-being of consumers to support compliance. Alternatively, an adviser could be appointed through an enforceable undertaking or be required by an injunction. Where this is a requirement, the provider will be required to appoint an eligible adviser at its own expense and notify the Commission within a specified period that it has made the appointment. The Commission will liaise with the provider and the adviser for the period of the compliance action. The adviser must have appropriate qualifications, skills or experience to help the provider rectify the situation.

## **3.6 Referral to other organisations**

At any stage, a referral may be made to another organisation for action or as information. The following are examples of referrals that may be made:

- the Department of Health and Department of Social Services Community Grants Hub, in relation to Commonwealth Home Support Programme providers
- the Department of Health, to notify of financial viability concerns regarding an aged care provider
- the NDIS Quality and Safeguards Commission, where an NDIS participant is a party to a reportable incident under the Serious Incident Response Scheme or complaint under the Complaint Resolution Scheme
- Services Australia, in relation to aged care payments management including fraud investigation – compliance officers may identify that a provider has received an overpayment in financial subsidy, and overpayments may reflect fraudulent activity against the aged care program
- Services Australia, in relation to the event of a closure of a service, so that subsidy payments cease, and arrangements can be organised for those consumers relocating to other services
- the relevant State Coroner, in relation to an investigation of the circumstances surrounding all reportable deaths.

- the relevant federal, state or territory police force, for matters involving a possible crime or for performing and coordinating emergency and rescue operations
- Australian Health Professionals Registration Authority (AHPRA), for concerns about the conduct of health professionals and any matters regarding national registration and accreditation
- the Australian Competition and Consumer Commission, in relation to overcharging or unlawful charging of aged care fees
- State authorities responsible for the investigation of conduct of unregistered health care workers.

Where the Commission has gathered evidence, this may result in a referral to another government agency or regulator. Any evidence or allegation of criminal activity is referred to the police with relevant jurisdiction.

#### **4. Communication with consumers and their representatives**

Where the Commission has found the provider to be non-compliant with its responsibilities, the provider is expected to advise consumers at the affected service of the non-compliance. Any incidents that have caused harm or had the potential to harm consumers should be discussed with consumers, their family, carers and other people who support them.

There is an expectation that a provider in these circumstances will practise open disclosure. This means to express regret, provide a factual explanation of what happened, the potential consequences, and what steps are being taken to manage the issue and prevent a similar event occurring again.

Where sanctions are imposed or certain other enforceable regulatory actions are taken, the Commission may require the provider to hold a meeting with consumers and representatives at the service to explain the non-compliance, and the actions to be taken to correct it. It is expected that providers will communicate and engage with consumers about what they are doing to address the non-compliance to ensure consumers understand what is occurring to implement and sustain improvements.

Direct communication and engagement with consumers and their representatives may also be undertaken by the Commission.

#### **5. Publication of compliance outcomes**

The Commission may publish certain information on the Commission website, as permitted 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, manage risks and undertake continuous improvement
- inform the public about the Commission's work.

The following information regarding the Commission’s compliance decisions and actions is published either on the Commission’s website or My Aged Care:

- performance reports for aged care services following a performance assessment against the Quality Standards
- accreditation decisions for residential services
- Service Compliance Rating for residential services
- a non-compliance register
- information on directions
- information regarding enforceable regulatory actions
- information regarding revocation actions.

### 5.1 Service Compliance Rating

The Service Compliance Rating on the [My Aged Care website](#)<sup>4</sup> is based on existing compliance and enforcement decisions of the Commission and signifies a service’s compliance status.

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 criteria shown in **Figure 3: Service Compliance Rating** (below).

If and when the Commission is satisfied the service has implemented actions to ensure compliance with its responsibilities, the Service Compliance Rating will revert 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.

Refer to the [Commission’s Regulatory Bulletin RB 2020-11: Publication of provider performance information](#)<sup>5</sup> for further information.

**Figure 3: Service Compliance Rating**

Dot rating	Reason for rating	Description of rating on My Aged Care website
<b>Four dots</b>	No areas for improvement identified	Meets requirements
<b>Three dots</b>	Areas for improvement identified	Some improvements needed
<b>Two dots</b>	Non-compliance leading to enforceable regulatory action such as non-compliance notice	Significant improvements needed
<b>One dot</b>	Serious non-compliance leading to enforceable regulatory action such as sanction or notice to agree	Inadequate

<sup>4</sup> <https://www.myagedcare.gov.au/>

<sup>5</sup> <https://www.agedcarequality.gov.au/resources/rb-2020-11-publication-provider-performance-information>



## 6. Procedural fairness

The Commission must afford providers procedural fairness in line with the requirements of its legislative framework. Wherever possible, providers will be given an opportunity to respond to evidence that is adverse against the provider's interest and findings of fact made by the Commission.

However, where the Commission is satisfied that a provider's non-compliance puts consumers at immediate and severe risk, it can and will take compliance action without first affording the provider an opportunity to respond.

Notably, the Commission may also give a provider a compliance notice for actual or possible non-compliance with its incident management and/or restrictive practices responsibilities, without first affording the provider an opportunity to respond, where early regulatory engagement is required to mitigate risk regarding those responsibilities.

## 7. Review of decisions

Where a person or body is not satisfied with a decision made by the Commission, they may be able to request reconsideration or seek review of the decision. There are various avenues for merits and judicial review of certain Commission decisions.

### 7.1 Merits review

Where decisions are reviewable, a provider may seek reconsideration of the decision by the Commission.

The following decisions are reviewable decisions:

- a decision not to approve a person or body as a provider of aged care
- a decision not to revoke the approval of an approved provider
- a decision to revoke the approval of a person or body as a provider of aged care
- a decision to impose a sanction on a person or body
- a decision not to lift a sanction imposed on an approved provider
- a decision not to accredit a commencing service
- a decision not to re-accredit a recommencing or residential service
- a decision to revoke accreditation of an accredited service
- a decision to vary an accredited service's period of accreditation
- a decision on an accredited service's period of accreditation
- a decision to give a compliance notice to an approved provider.

If a provider is not satisfied with the internal review of a decision within the Commission, it is able to seek review of the reconsideration decision by the Administrative Appeals Tribunal (AAT). The AAT may then undertake a second-tier review.

## 7.2 External scrutiny

In addition to seeking a merits review of a reviewable decision, a provider may also seek judicial review of administrative decisions. Judicial review of administrative decisions is concerned with whether the decision is lawful.

Another possible avenue of review is the Commonwealth Ombudsman. The Commonwealth Ombudsman can investigate the administrative decisions of the Commission, either following a complaint or on its own motion, and determine whether the decision was wrong, improperly discriminatory, involved a mistake of fact or law, or was unjust, unreasonable or oppressive.

Following an investigation, the Ombudsman can recommend remedial action if the Commission has acted defectively but has no power to overturn the decision. In some circumstances, the Ombudsman may inform the Prime Minister of matters or make special reports to Parliament.

The Commission's performance as a regulator more broadly is subject to the Regulator Performance Framework. The Commission assesses its performance against the framework and publishes it on its website.

## Attachment A: Regulatory management following non-compliance

	Overview of Commission response	Type of action	Action description
<b>Regulatory action</b>	<p>Regulatory action may apply where risk is assessed as low to medium<sup>6</sup>. Regulatory engagement allows the Commission to bring the non-compliance to a provider’s attention and encourages the provider to rectify the non-compliance.</p>	<p>Direction to revise plan for continuous improvement (where there is non-compliance with the Quality Standards)</p>	<p>The Commission issues to the provider a direction to revise the plan for continuous improvement for the service. The revised plan must be given to the Commission. If the Commission is not satisfied that necessary improvements are being made to meet the Quality Standards as outlined in the plan for continuous improvement, then the Commission may take enforceable regulatory action.</p>
		<p>Complaints Direction (when undertaking a complaints resolution process)</p>	<p>If the Commission is concerned that a provider is not complying with its responsibilities, it will notify the provider of the Commission’s concerns and provide them with an opportunity to respond to those concerns. Directions outline the actions the provider is required to undertake (including necessary time periods) in order to meet its responsibilities.</p>
		<p>Frequency of performance assessment or monitoring</p>	<p>The Commission will determine both the form and frequency of performance assessment or monitoring contact with the provider following review of the provider’s revised plan for continuous improvement.</p>
		<p>Requests for information and provider engagement</p>	<p>The Commission may request information from the provider and increase engagement to support compliance.</p>

<sup>6</sup> In assessing risk, the Commission considers both harm to the safety, health, well-being and quality of life of consumers; and trust of the provider (likelihood of managing harm) if relevant.

	Overview of Commission response	Type of action	Action description
<b>Enforceable regulatory action</b>	<p>Enforceable regulatory action may apply where risk is assessed as medium to severe or where a provider has failed to remedy non-compliance following regulatory action.</p> <p>Enforceable regulatory action allows the Commission to actively encourage the provider to comply with its responsibilities as quickly as possible and/or to deter the provider from future non-compliance.</p>	Compulsory information gathering	The Commission may issue a written notice to a provider requiring the provider to give the Commission information or documents specified in the notice. The notice will indicate a reasonable time period in which the documents or information are to be produced.
		Compliance Notice	The Commission may issue an Incident Management Compliance Notice (IMCN) or Restrictive Practices Compliance Notice (RPCN) if it is satisfied that a provider is not complying with the relevant provisions of the Aged Care Act, or is aware of information that suggests that the provider may not be complying with the relevant provisions. The compliance notice will require the provider to address the actual or possible non-compliance within a reasonable timeframe.
		Variation to reduce period of residential service accreditation	<p>For residential services, where a review audit has been completed, the Commission will consider the audit report, the provider's response to the report and other relevant matters such as the service's compliance history and whether the provider has demonstrated commitment to continuous improvement of the service with respect to the Quality Standards.</p> <p>The Commission may then decide to vary to reduce the period of accreditation of the service.</p>
		Non-Compliance Notice (NCN)	<p>An NCN is issued to the provider if the Commission is satisfied that a provider is non-compliant with its responsibilities (other than the responsibility referred to in paragraph 63-1(1)(k) or (l) of the Aged Care Act), and there is no immediate and severe risk to the safety, health and well-being of the consumer.</p> <p>The NCN advises the provider of the non-compliance, sets out actions the provider is required to take to remedy the non-compliance and gives the provider the opportunity to respond prior to the decision-maker deciding whether to impose sanctions.</p>

	Overview of Commission response	Type of action	Action description
<b>Enforceable regulatory action</b>		Requirement to give an undertaking about remedying non-compliance (Undertaking to Remedy)	<p>If the delegate is satisfied with the provider's response to an NCN, for example, the response outlines the proposed action to remedy the non-compliance; or sets out an acceptable reason for the non-compliance; or is otherwise satisfactory, a Notice to Remedy (NTR) may be issued to the provider.</p> <p>An NTR requires the provider to give to the Commission, within 14 days after receiving the NCN, an Undertaking to Remedy the non-compliance mentioned in the NCN.</p>
		Requirement to Agree to Certain Matters (Notice to Agree)*	<p>In cases where the risk to consumers is assessed as high to severe and an approved provider's non-compliance has resulted in the Commission considering revoking its approval to deliver aged care through a sanction, the Commission may – in certain circumstances – first issue the provider a Notice of Requirement to Agree to Certain Matters (NTA)*.</p> <p>An NTA sets out actions a provider is required to take and informs the provider that if the provider does not agree to do those specified actions within necessary timeframes in accordance with the NTA, its approval to provide Commonwealth-funded aged care will be revoked.</p>
		Infringement notice	<p>An infringement notice may be issued if the Commission believes on reasonable grounds that a provider has contravened a specified civil penalty provision or offence provision in the Aged Care Act or the Commission Act. The infringement notice will include details such as the alleged contravention and the amount payable. The provider is then required to either pay the specified amount or seek a court order to have the notice set aside.</p>

\* The Commission may issue both an NTA and a Notice of Decision to Impose Sanctions in response to a provider's non-compliance.

	Overview of Commission response	Type of action	Action description
Enforceable regulatory action		Enforceable Undertaking	<p>The Commission may accept an enforceable undertaking from a provider, where the Commission and the provider have reached agreement on a course of action to ensure that the provider complies with its aged care responsibilities.</p> <p>The Commission may cancel the undertaking and the provider may withdraw or vary the undertaking with the consent of the Commission. If the Commission considers that the provider has breached an undertaking, it may apply to a relevant court to enforce the terms of the undertaking.</p>
		Injunction	<p>The Commission may seek an injunction if a provider has engaged, or intends to engage, in conduct which contravenes the provider's aged care responsibilities. The injunction may restrain the provider from engaging in the conduct, and if necessary, require the provider to do a specific thing.</p> <p>The Commission may seek an injunction through an application to a relevant court.</p>
		Civil Penalties	<p>A civil penalty may be imposed by a relevant court on application by the Commission for contraventions of specified civil penalty provisions in the Aged Care Act or the Commission Act. These situations may involve a provider who has failed to comply with an Incident Management Compliance Notice or a Restrictive Practices Compliance Notice or has contravened the anti-victimisation provisions in the Aged Care Act.</p> <p>A civil penalty is a monetary penalty that is payable to the Commonwealth, with the appropriate amount determined by the relevant court.</p>

	Overview of Commission response	Type of action	Action description
Enforceable regulatory action		Sanctions Imposed*	<p>If the delegate is satisfied that the provider has not complied or is not complying with its aged care responsibilities, and it is appropriate to impose sanctions on the provider, the Commission may issue a Notice of Decision to Impose Sanctions*. This notifies the provider, in writing, of the delegate's decision to impose one or more sanctions on the provider.</p> <p>For example, the Commission may consider it appropriate to impose sanctions on a provider where it is not satisfied with the provider's response to the NCN; or there is immediate and severe risk (see below); or a provider has not complied with an NTA.</p>
		<p><b>Immediate and severe risk</b></p> <p>Where there is evidence of non-compliance against the Quality Standards, the Commission considers the potential risk to consumers posed by the non-compliance. The Commission will consider if the risk is both immediate and severe.</p> <p>In cases where it has been determined that a provider's non-compliance poses an immediate and severe risk to consumers, the Commission may respond by issuing a sanction.</p> <p>In these circumstances procedural fairness considerations do not apply.</p>	
Revocation	<p>Revocation may apply where assessed risk is severe.</p> <p>The Commission considers a provider's suitability to be an approved provider of aged care services.</p>	Revocation of accreditation	<p>For residential services, where a site audit or review audit has been completed, the Commission may decide to not re-accredit a service (site audit) or to revoke accreditation of a service (site audit or review audit).</p>
		Revocation action	<p>Revocation of approved provider status can be initiated by the Commission either:</p> <ul style="list-style-type: none"> <li>• as a result of sanctions or failure to comply with the avoidance provisions of a sanction</li> <li>• because the provider has ceased to be suitable for approval.</li> </ul>