



Obligations and accountabilities

The flipbook guides have been designed as supplementary supports for the learning modules. The guides include key messages and insights for your continued reflection.

Disclaimer: The new Aged Care Act 2024 (the Act) starts on 1 November 2025. The Act replaces existing aged care legislation. The Aged Care Rules (the Rules) are expected to be finalised before the Act starts. The Rules give more information about how the new Act will work. This resource is in draft. We will update it when both the Act and the Rules come into force.

Need to know: Obligations and accountabilities

Aged care provider governing bodies and executives have a wide range of legal duties and obligations that they individually and collectively must adhere to. It is essential that governing body members and executives not only understand their obligations and any changes to them, but how they can effectively report on these obligations and facilitate an organisational culture of continuous improvement and compliance.

There are several core responsibilities that aged care providers are required to comply with in meeting their obligations.

Read about these core responsibilities on the following pages.

Quality of care and service provided

The rights of people receiving care and services

Being accountable for care and services provided

Need to know: Obligations and accountabilities

Quality of care and service provided

- Providing care and services as specified in the **Aged Care Act 2024** and the **Aged Care Rules 2025**.
- Maintaining an adequate number of appropriately skilled staff to ensure that the care needs of older people are met.
- Providing care consistent with the **Statement of Rights**.
- Complying with the strengthened **Aged Care Quality Standards**.
- Complying with the **Financial and Prudential Standards**, managing both finances and financial risk responsibly.
- Minimising the use of restraint.
- Introducing an influenza vaccination scheme for service staff.

The rights of people receiving care and services

- Deciding how much to charge care recipients for services.
- Complying with requirements relating to fees, costs and charges.
- Ensuring security of tenure.
- Enabling a person acting for a care recipient, or an advocate or community visitor (for residential aged care), access to services.
- Meeting requirements for home care and flexible care agreements.
- Managing and solving complaints.
- Complying with the **Statement of Rights**.
- Disclosing information to older people and their supporters as required under the **Aged Care Rules 2025**.

Need to know: Obligations and accountabilities (continued)

Being accountable for care and services provided

Providers should understand all responsibilities under the **Aged Care Act 2024** to comply with the **Code of Conduct for Aged Care** (the Code). This includes taking reasonable steps to support, equip and prepare your staff to carry out their roles (e.g. providing training, making sure policies and procedures are easily accessible and ensuring staff comply with the Code).

The Serious Incident Response Scheme (SIRS) has been extended from residential aged care to home care and flexible care delivered in a home or community setting.

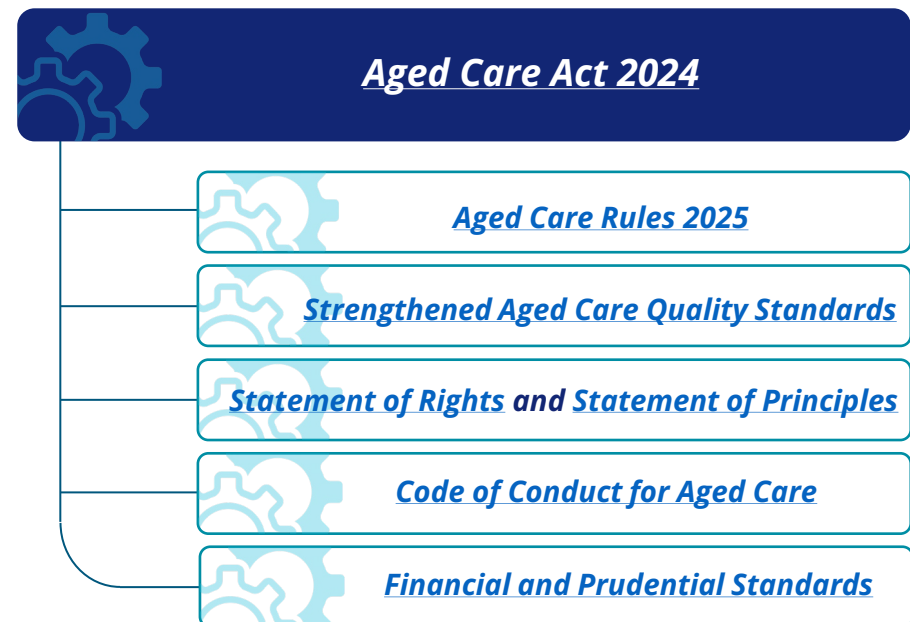
This includes:

- Complying with record-keeping obligations.
- Cooperating with any person exercising powers under the **Aged Care Act 2024**.
- Appraising and reappraising older people's care requirements, in relation to classifying older people's needs.
- Ensuring all staff and volunteers have police checks or criminal history checks.
- Ensuring responsible persons are not disqualified individuals.
- Notification of any material changes.
- Observing all provider compliance reporting requirements.
- Participating in an aged care workforce census.
- Reporting alleged and suspected reportable incidents to the Aged Care Quality and Safety Commission under the SIRS.

Overview of the legal frameworks

The below segments outline some of the relevant *Acts* and supporting sub legislation in the Aged Care Sector. Governing body members should take the time to read and understand what their requirements are under the legislation and sub legislation.

Click on links to view the relevant frameworks.



Role of the governing body and executive

Governing body members have a responsibility to understand their obligations. They are ultimately responsible and accountable for ensuring high-quality care and services are being delivered to all older people. They must also ensure that there are robust risk management and governance systems in place.

To do this successfully, governing bodies and executives need to:

- discharge their legal duty
- monitor how the organisation is delivering quality and safe care
- comply with reporting obligations i.e. SIRS, National Aged Care Mandatory Quality Indicator Program and financial reporting
- establish organisational culture that supports holding people accountable for providing quality and safe care.

Understanding your obligations and duties

Read about the fiduciary, statutory and duties of aged care providers on the following pages



Fiduciary duties

All governing body members are considered fiduciaries for the providers that they serve, giving rise to contractual and common law fiduciary duties.



Statutory obligations and duties by provider type

All governing body members must understand the corporate and broader legal obligations that apply as employers and taxpayers under Australian laws that may differ based on the entity type of the provider.



Duties of aged care providers

Governing board members of providers of aged care must understand and comply with aged care specific legislation and regulations to maintain registration and Australian Government funding under aged care legislation.

Role of the governing body and executive (continued)



Fiduciary duties

A duty to act in good faith in the best interests of the provider and for a proper purpose

Act honestly, fairly and loyally in making decisions for the benefit of older people and the provider.

Duty to act with due care, skill and diligence

Keep up to date with developments in the aged care sector, ask for more information if needed to make decisions or seek out skills or professional advice when necessary.

A duty to avoid and manage conflicts of interest

Identify and manage any actual, potential or perceived conflicts as they arise.

A duty not to misuse information obtained as a governing body member

Do not use commercially sensitive information shared at governing body meetings with third parties or for personal advantage.

A duty to prevent the provider from trading while insolvent

Stay informed about the financial position of the provider take reasonable steps to prevent the provider from incurring further debt until it can pay any outstanding debts.

A duty of skill, competence and diligence in the understanding of the financial report

Take time to understand the financial report and how the finances impact on operations and clinical care.

Role of the governing body and executive (continued)



Statutory obligations and duties by provider type

Entity Type	Regulation
Listed companies	<ul style="list-style-type: none"> • <i>Corporations Act 2001</i> • ASX Listing Rules • ASX Corporate Governance Principles and Recommendations
Indigenous corporation	<ul style="list-style-type: none"> • <i>Corporations (Aboriginal and Torres Strait Islander) Act 2006</i>
Not-for-profit or charitable	<ul style="list-style-type: none"> • <i>Australian Charities and Not-for-profits Commission Act 2012</i> • <i>Charities Act 2013</i>
Faith based	<ul style="list-style-type: none"> • Church establishing legislation
Incorporated associations	<ul style="list-style-type: none"> • State based enabling legislation

Entity Type	Regulation
Use of personal information and data breaches	<ul style="list-style-type: none"> • <i>Privacy Act 1988</i> • Notifiable Data Breaches scheme
Using My Health Record for older people's records	<ul style="list-style-type: none"> • <i>My Health Records Act 2012</i>
Employee entitlements and safe working conditions	<ul style="list-style-type: none"> • <i>Fair Work Act 2009</i>
Providing National Disability Insurance Scheme (NDIS) supports	<ul style="list-style-type: none"> • <i>National Disability Insurance Scheme Act 2013</i>

Role of the governing body and executive (continued)



Duties of aged care providers

Duty	Regulation
Prepare financial reports in approved form	<ul style="list-style-type: none"> • <i>Aged Care Act 2024</i> • <i>Section 166</i> Reporting
Notification of circumstances materially affecting suitability to provide aged care	<ul style="list-style-type: none"> • <i>Aged Care Act 2024</i> <i>Section 169</i> Responsible persons of a registered provider must notify of change of circumstances relating to suitability
Ensure suitability of responsible person(s)	<ul style="list-style-type: none"> • <i>Aged Care Act 2024</i> <i>Section 12</i> Meaning of <i>responsible person</i> <i>Section 13</i> Meaning of <i>suitability matters</i> in relation to an individual
Ensure suitability of workers and volunteers	<ul style="list-style-type: none"> • <i>Aged Care Act 2024</i> <i>Section 152</i> Workforce and aged care workers requirements <i>Section 11 (4) and (5)</i> Who delivers funded aged care services <i>Section 13</i> Meaning of <i>suitability matters</i> in relation to an individual
Maintaining quality of care and provider registration	<ul style="list-style-type: none"> • <i>Aged Care Act 2024</i> <i>Section 20</i> Meaning of <i>high-quality care</i> <i>Section 109</i> Registration and renewal requirements <i>Section 110</i> Audit requirements

Your obligations and person-centred care

It is the duty of governing body members and executive leaders to keep abreast of the obligations and accountabilities they are held to.

The recommendations from the Royal Commission into Aged Care Quality and Safety were made to significantly improve the aged care sector, create better services and ensure a higher standard of care for older people. These changes make sure that older people are at the centre of their care and have:

- support to maintain independence, improved choice and control
- access to services that support dignity and respect
- access to information for informed decision-making.

This has resulted in a heightened focus on many different areas including:

- Stronger governance of approved providers, for example, board composition, offering of the establishment of advisory bodies.
- Minimising the use of restrictive practices and the clarity of informed consent for the use of restrictive practices where consumers lack the capacity to consent on their own behalf and there is no explicit legal avenue under state/territory laws for a restrictive practices substitute decision-maker to be appointed.
- Funding models for different types of services.
- Annual reporting requirements and other mandatory reporting requirements, for example submitting of data in relation to the QI Program, provision of financial information, reporting of care minutes and 24/7 registered nursing cover (where applicable).
- Mandatory participation of residential aged care services in the QI Program and star ratings for residential aged care services.

Your obligations and person-centred care (continued)

Aged care reforms and legislative change make aged care safer, fairer and more respectful. The following rights of older people should be at the centre of the aged care system:

Read about these rights on the following pages.



Your obligations and person-centred care (continued)



Your rights matter:

Older people are valued as a person and as an individual. They can expect respect for their choices and are able to choose who helps them make decisions. They can exercise their independence and stay connected to their community.

Older people have the right to have their culture and identity respected and be supported to make complaints and receive a quick and fair response.



Choice and transparency:

Older people have real choice and control over their care. There are greater responsibilities on how providers operate and spend money.

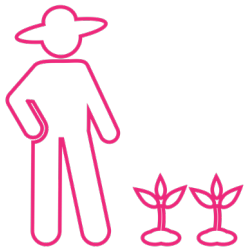
Older people can expect that their private information is respected and safeguarded and that there is fair and sustainable funding for the services they receive.



A strong workforce:

Older people's care and support needs are met by an appropriately skilled, diverse and valued workforce who provide high-quality, safe care. There are clear responsibilities and better screening for aged care workers and whistleblower protections.

Your obligations and person-centred care (continued)



Access and entry:

Older people have choice over how and when they receive care and support and can make decisions about who provides their care. They have equitable access to care and a single assessment to find out what care they need. Early access to care can be made for some people aged 50-64.



Rules and regulations:

Legislation and sub legislation that puts the rights of older people first and responds to issues facing older people, providers, workers and the sector.

Rules and regulations that will support the delivery of safe, high-quality aged care services and the people accessing these services.



High-quality care:

Older people are provided with safe and high-quality care that supports and optimises their health and well-being and maintains their dignity and quality of life.






There are stronger standards and better monitoring of care quality which is culturally sensitive and trauma informed.

Read more about person-centred care and aged care reforms in the 'Transforming aged care' resource listed below.






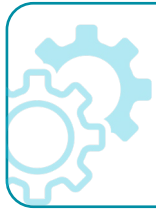




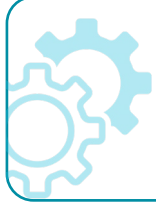










Practical implications of obligations and responsibilities (reflective)

Consider the following check list.

Does this apply in your organisation? What actions could be taken to ensure that the governing body, executive and organisation are aware of their obligations and accountabilities and how to effectively discharge them?

1.	Does my governing body and organisation have effective systems and mechanisms to identify, track and monitor obligations depending on the services provided? If not, how can we do this better?	
2.	Does my organisation define and actively communicate/educate standards and expectations of our workforce in supporting compliance? This can be done through items such as: a. Code of Conduct b. Compliance Policy and governance framework c. Open Disclosure Policy d. Whistleblower Policy e. WHS Policy and Guidelines f. Privacy Policy g. Workforce Strategy	
3.	Does my governing body promote the expected and acceptable behaviours to drive a culture of compliance and continuous improvement? How can we do this better?	
4.	Does my governing body have effective and timely oversight of risk-based reporting to maintain oversight and accountability for ensuring all legislative and regulatory requirements are met?	
5.	Does my governing body have an assurance model that ensures governing body members and executives are satisfied that obligations and duties are being fulfilled?	

Additional resources

 Aged Care Act 2024	 Strengthened Aged Care Quality Standards	 Aged Care Rules 2025	 Financial and Prudential Standards	 Statement of Rights
 Code of Conduct for Aged Care	 Corporations Act 2001	 ASX Listing Rules	 ASX Corporate Governance Principles	 Australian Charities and Not-for-profits Commission Act 2012
 Charities Act 2013	 Privacy Act 1988	 Notifiable Data Breaches scheme	 My Health Records Act 2012	 National Disability Insurance Scheme Act 2013
 Fair Work Act 2009	 Corporations (Aboriginal Torres Strait Islander) Act 2006	 Serious Incident Response Scheme	 Responsibilities of registered aged care providers	 Transforming aged care
 Governing for quality aged care – A director's guide				



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