

Parallel Session: 1

11:30am – 13:00pm Tuesday 23 April 2024

Provider registration unpacked – registration and registration renewal (Residential services)

Louise Macleod

Complaints Commissioner



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Welcome

Lisa Peterson PSM

Deputy Commissioner, Sector Capability and Regulatory Strategy, ACQSC

Simon Christopher

*Director, Regulatory Strategy, Harmonisation and Regulatory Strategy
Branch, Quality Assurance Division, Department of Health and Aged Care*

Belinda Hocroft

Director, Operational Policy and Support, ACQSC



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The new provider registration model

- Single universal provider registration system
- Providers must be registered by the Commission
- Providers register in a category, based on service types
- Registration is for a defined period, after which a renewal is required
- Registered providers will have obligations and conditions of registration



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Registration will apply to:

- Residential aged care services
- Commonwealth Home Support Programme services
- Home Care Packages Program
- Short-Term Restorative Care Programme
- Transition Care Programme
- Multi-Purpose Services Program
- National Aboriginal and Torres Strait Islander Flexible Aged Care Program.

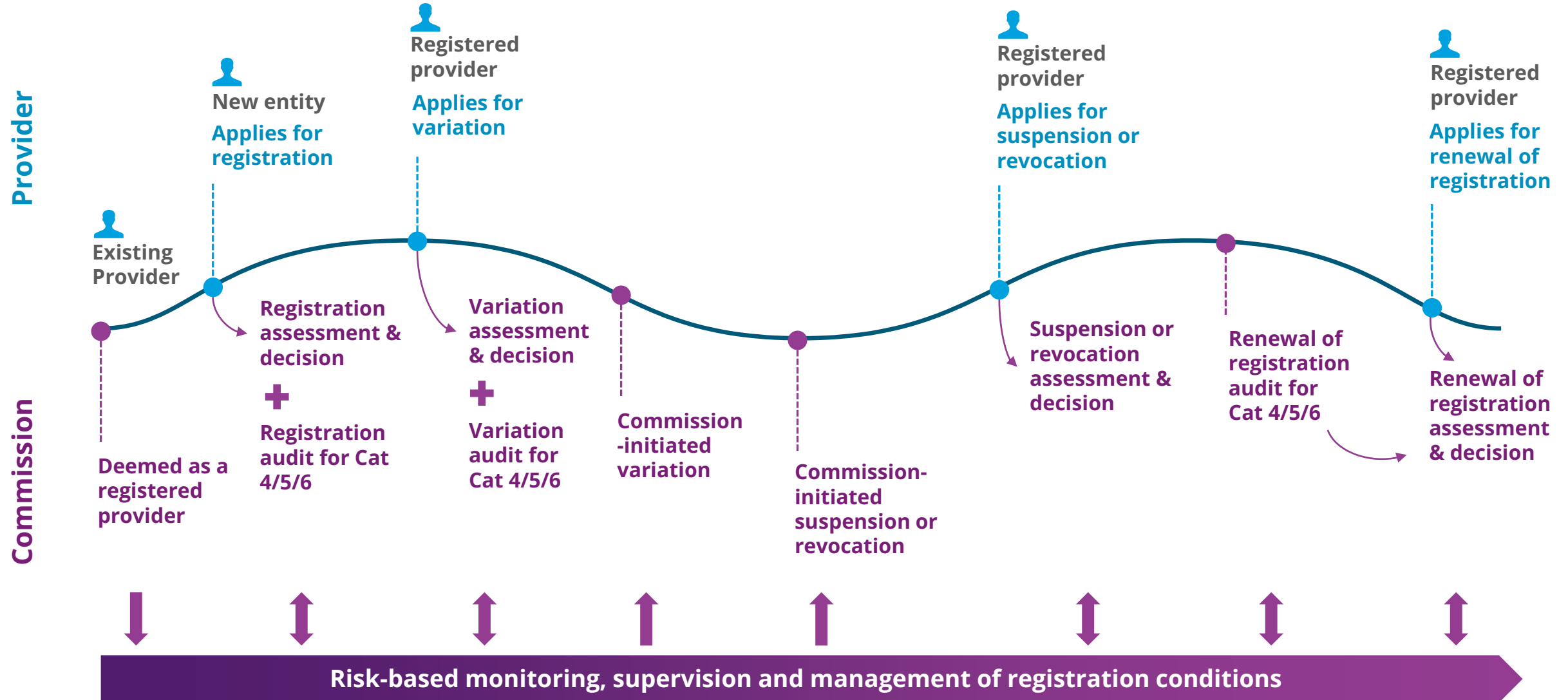


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Registration cycle



DRAFT - Proposed registration categories

*The Aged Care service list has been adjusted resulting in some service types being renamed or removed until commencement of the Support at Home program

Provider registration category	Description	Service types	Application to registration categories	
			Aged care quality standards – core 1–4	Aged care quality standards – module 5–7
Category 1	Home and community services	- Domestic assistance - Home maintenance and repairs - Meals and nutrition - Transport		
Category 2	Assistive technology and home modifications	- Goods, equipment and assistive technologies (non-digital) - Home modifications		
Category 3	Advisory services	- Care management (basic) - Assistance with care and housing - Specialised supports		
Category 4	Personal and Social care in the home or community (including respite)	- Transition care services - Allied health - Personal care - Social support and community engagement - Flexible, Centre-based and cottage respite	✓ <i>Standard 1: The Person</i> <i>Standard 2: The Organisation</i> <i>Standard 3: The Care and Services</i> <i>Standard 4: The Environment</i>	
Category 5	Nursing and complex care management	- Nursing - Care management (complex)	✓ <i>Standard 1: The Person</i> <i>Standard 2: The Organisation</i> <i>Standard 3: The Care and Services</i> <i>Standard 4: The Environment</i>	✓ <i>Standard 5: Clinical Care</i>
Category 6	Residential care	- Accommodation Services - Care and services - Residential respite	✓ <i>Standard 1: The Person</i> <i>Standard 2: The Organisation</i> <i>Standard 3: The Care and Services</i> <i>Standard 4: The Environment</i>	✓ <i>Standard 5: Clinical Care</i> <i>Standard 6: Food and Nutrition</i> <i>Standard 7: The Residential Community</i>

Provider obligations and Code of Conduct apply to all Categories

Registration requirements

General requirements

- Entity has an ABN
- Entity is suitable to deliver funded aged care:
 - Compliance with any law of the Commonwealth or any law of a State or Territory where the entity operates (including any history of non-compliance)
 - Whether there is a current or previous banning order or an NDIS banning order against the entity in force
 - If the entity was previously a registered provider, an approved provider or a registered NDIS provider—that registration was not revoked (other than on request by the entity)
 - If the entity is a registered provider or a registered NDIS provider—the registration is not suspended
 - Entity's previous experience in delivering funded aged care services in the entity's intended service types or other similar services
- Each responsible person of the entity is suitable to deliver funded aged care services having regard to the suitability matters
- Entity meets the provider registration categories specific requirements for at least one category.

Provider registration categories specific requirements

- Entity intends to deliver service types in the 3 year period after application
- Entity understands the funded aged care services in the intended service types
- Entity has the commitment, capability and capacity to deliver funded aged care services in the intended service types
- If applying for category 6, residential care will be delivered through at least one approved residential care home
- If applying for category 4-6, an audit has found the entity will be able to comply with the Aged Care Quality Standards (or circumstances prescribed by the rules apply)
- Entity has a record of sound financial management and has methods that the entity uses, or proposes to use, to ensure sound financial management to deliver the funded aged care services in the intended service types

Approval of residential care homes

- Relevant to registration category 6 only (residential care)
- New residential care homes will need to be approved by the Commission
 - A new entity can seek approval through their registration application
 - A registered provider can seek approval through a registration variation application
- Approved residential care homes will not need to be re-approved as part of the renewal of registration process, or where there is a transfer to another registered provider.



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Registration renewal

- Commission initiates registration renewal prior to registration expiry
- Commission issues a Notice of Decision and updates registration details in the Provider Register, including the registration period
- Registration continues to be subject to provider obligations and conditions of registration.



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DRAFT - Obligations framework

Conditions of registration (primary legislation)

Categories 1-6

- Aged Care Code of Conduct of Conduct
- Workforce requirements
- Personal information and record keeping
- Fees and payments
- Incident management
- Complaints and whistleblowers
- Compliance with the Financial and Prudential Standards
- Continuous improvement
- Constitution of registered providers that are wholly-owned subsidiary corporations
- Delivery of funded aged care services
- Ceasing the provision of funded aged care services

Category and provider specific conditions

- Compliance with Quality Standards - Categories 4-6
- Continuous improvement plan
- Restrictive practices - Categories 6.
- Advisory bodies – Category 4-6
- Membership of governing bodies – Categories 5-6

Provider-specific conditions

Commission may impose conditions to manage risks and for non-compliance

Obligations (primary legislation)

Categories 1- 6

- Compliance with laws
- Reporting
- Change in circumstances
- Offence relating to failure to take action required by determination relating to suitability of responsible persons of a registered provider
- Offence relating to failure to comply with responsibility to consider suitability matters relating to responsible persons
- Cooperation with other persons
- Protection of personal information

Category specific

- Registered nurses in approved residential care home 24/7 - Category 6



Rules (subordinate legislation under development) may specify categories to which a condition applies, or requirements related to certain conditions.

Commission variation of registration

- Alter or revoke a Commission imposed condition of registration
- Impose a new condition of registration
- Remove a provider registration category
- Reduce or extend the registration period
- Remove an approved residential care home



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Provider variation application

- Commission may vary registration following a provider application.
- Variation includes:
 - registering the provider in a new category
 - removing a registration category
 - approving a new residential care home
 - adding or removing an existing approved residential care home
 - varying or revoking a Commission imposed condition
 - imposing a new condition



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Revocation and suspension of registration

- The Commission can revoke or suspend a provider's registration where:
 - there are very high levels of risk to the safety of older people
 - risk to their ongoing continuity of care
 - the provider is no longer suitable to deliver aged care services.
- Suspension ceases Commonwealth funding.
- Revocation permanently ceases the provider's ability to provide Commonwealth funded aged care.
- Reviewable decisions, able to apply for reconsideration of the decision.



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Deeming process

- **Existing providers will be “deemed registered”** into the most suitable registration category or categories by the Department of Health and Aged Care.
- Providers will have an opportunity to provide feedback on their proposed registration categories prior to deeming occurring.
- As part of deeming **your information will be input into the Government Provider Management System (GPMS).**
- **Make sure your key contact details, and roles and responsibilities are up to date** in the GPMS or with your program manager.



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Renewal of registration

- Give community confidence that providers are regularly assessed and remain suitable to deliver aged care services.
- Registered providers will be invited to apply for renewal.
- Commission will consider the following when making a decision:
 - information given in the application form
 - outcome of an audit
 - information and intelligence gathered or received during the provider's registration period
- Registration will cease if the renewal application is not submitted prior to the end of the registration period.



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Registration categories and audit

Provider Types	Audit arrangements	Which Aged Care Quality Standards apply?
Type A - Category 1-3 (home or community based)	No audit	No standards
Type B - Category 1, 2, 3 and 4 (home and community based)	One audit for service types in Category 4	Standards 1-4
Type C - Category 1, 2, 3, 4 and 5 (home or community based)	One audit for service types in Categories 4 and 5	Standards 1-4 (Categories 4 and 5) Standard 5 (Category 5 only)
Type D - Category 1, 2, 3, 4, 5 and 6 (home or community based and residential care)	One audit for service types in Categories 4 and 5 One audit for each Residential Care Home	Standards 1-4 (Categories 4, 5 and 6) Standard 5 (Category 5 and 6 only) Standards 6-7 (Category 6 only)
Type E - Category 6 (residential care)	One audit for each Residential Care Home	All Standards



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Renewal of registration audit

- Commission initiates audit and obtains information to inform the audit program
- Opening meeting on the audit process
- Evidence gathering
- Closing meeting and discussion of initial findings
- Reporting:
 - Preliminary audit report
 - Provider response
 - Final audit report



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Decisions and outcomes

- Audit determines a provider's conformance with the standards
- Audit outcome is considered by the Commissioner's delegate when making the registration or renewal of registration decision.
- Commission may make various decisions where there is non-conformance.
- If risk is detected through an audit or registration process, we will assess that risk and respond in a proportionate way.



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Risk-based monitoring

- Risk-based monitoring allows the Commission to:
 - engage with providers about concerns we have
 - hold providers to account when things have gone wrong
 - identify any gaps in the responses being taken
 - inform compliance or enforcement actions.



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Regulatory Bulletin

Reconsideration of reviewable decisions

RB 2021-12

This Regulatory Bulletin outlines how an affected or interested person can apply for reconsideration of certain decisions made by the Aged Care Quality and Safety Commission (Commission). It details the Commission's process and responsibilities relating to its reconsideration of reviewable decisions under Part 8B of the *Aged Care Quality and Safety Commission Act 2018* (Commission Act), and complaints reviewable decisions and regulatory reviewable decisions under Part 7 of the *Aged Care Quality and Safety Commission Rules 2018* (Commission Rules).

Key points

- A person can request reconsideration of certain decisions made by the Commission.
- The reconsideration request must be made within a specified timeframe of the person being notified of the reviewable decision.
- The decision-maker reconsiders the original decision on its merits based on administrative law principles.
- The reconsideration decision-maker can take into account relevant information following the original decision including all relevant information or evidence up to the time of the reconsideration decision.
- The Commission publishes information relating to certain reconsideration decisions on the [Commission website](#).



Regulatory Bulletin

Procedural fairness

RB 2023-21

This Regulatory Bulletin explains what procedural fairness is. It also explains:

- the circumstances where the Aged Care Quality and Safety Commission (Commission) must provide procedural fairness
- our approach to providing procedural fairness when making decisions.

You can find definitions of the key terms used in this bulletin in our [glossary](#).¹

Key points

- Commission decision-makers apply fair procedures when making regulatory decisions.² These procedures are appropriate to the circumstances of each decision and meet legislative requirements.
- These fair procedures provide the people affected by a decision with a chance to respond to any negative information we use in that decision-making process. This is called the hearing rule. Those affected by a decision can include providers and individuals.

- The Commission's procedural fairness responsibilities increase in proportion to the seriousness of a decision and the impact it will have on a provider or individual.

- The Commission's primary role is to protect and improve the safety, health, wellbeing and quality of life of people receiving aged care services. Ensuring that aged care recipients are protected from harm must be the top priority.

- Where there is immediate and severe risk to consumers, the Commission may take action against a provider or an individual without giving them notice or an opportunity to respond.

¹ <https://www.agedcarequality.gov.au/about-us/corporate-documents/aged-care-quality-and-safety-commission-glossary>

² A regulatory decision by Commission decision-makers is a decision that relates to the Commissioner's functions under the *Aged Care Quality and Safety Commission Act 2018*.

Reconsideration of reviewable decisions

- Entity or provider may apply for reconsideration of a reviewable decision:
 - decision not to register an entity as a provider
 - decision not to register an entity in a registration category
 - decision to not approve a residential care home
 - decision to vary registration (Commission variation) or not to vary registration (provider request)
 - decision to suspend or to revoke registration (Commission initiated) or not to suspend or revoke registration (provider request)
 - decision to impose conditions on registration.
- Commission may also reconsider a reviewable decision.



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Further information



A new Aged Care Act: exposure draft – Consultation paper no. 2

<https://www.health.gov.au/resources/publications/a-new-aged-care-act-exposure-draft-consultation-paper-no-2?language=en>



Exposure draft – Aged Care Bill 2023

<https://www.health.gov.au/resources/publications/exposure-draft-aged-care-bill-2023?language=en>



Regulatory Bulletins

<https://www.agedcarequality.gov.au/news-publications/regulatory-bulletins>



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