



Regulatory Bulletin

Infringement notices

RB 2024-25

The Aged Care Quality and Safety Commission (Commission) can send an infringement notice to a provider or person (aged care workers and governing persons) that has not complied with their aged care obligations. We will do this if we believe:

- a **provider** has not complied with a civil penalty provision or an offence provision in the [Aged Care Act 1997](#) (Aged Care Act) or the [Aged Care Quality and Safety Commission Act 2018](#) (Commission Act)
- a **person** has not complied with a civil penalty provision in relation to their Code of Conduct obligations.

This regulatory bulletin explains:

- the legislation that sets out the Commission's powers and how we issue and administer infringement notices
- what the Commission considers when issuing infringement notices
- what is included in an infringement notice and how to respond to a notice.

You should read this regulatory bulletin alongside our [Compliance and Enforcement Policy](#).

You can find definitions of the **key terms** used in this bulletin in the [frequently asked questions](#) section.

Key points

- The Commission has the power to issue an infringement notice to a person or provider under the Aged Care Act and the [Regulatory Powers \(Standard Provisions\) Act 2014](#) (Regulatory Powers Act).
- The Commission may issue an infringement notice if we have reasonable grounds to believe that the person or provider has not complied with a specified legal provision described in this Bulletin.

Provisions

- Civil penalty provisions and offence provisions are parts of the Aged Care Act and the Commission Act that include obligations with which a provider and person must comply. Not complying with an **offence provision** can result in a criminal conviction and a fine from a court. If a court finds a person or provider has not complied with a **civil penalty provision**, it may issue a fine called a civil penalty. Civil penalty provisions do not result in criminal convictions.
- There are seven offence provisions and eleven civil penalty provisions for which the Commission can issue infringement notices.



Infringement notices

- An infringement notice from the Commission lets a provider or person know that they have not or may have not complied with an aged care obligation in relation to an offence provision or civil penalty provision. They can resolve this by paying the penalty amount in the notice. This is a faster and less expensive way of finalising the matter compared with having it go to court. Paying a penalty does not mean they are admitting guilt or liability, or that they are convicted of committing an offence.
- The Commission cannot issue an infringement notice more than 12 months after the day the non-compliance happened.
- The provider or person must pay the infringement notice penalty within 28 days of receiving the notice, unless the Commission gives them an extension of time to pay.
- If you receive an infringement notice, you have the option to:
 - pay the penalty amount
 - choose not to pay the penalty amount
 - apply for an extension of time to pay
 - ask the Commission to withdraw the infringement notice.
- Paying an infringement notice will discharge your liability for the specific instance of non-compliance it relates to. This means that you will not be prosecuted or taken to court.
- If an infringement notice is issued to you, we can still take other regulatory actions. We can do this if:
 - you have not paid the penalty by the due date
 - the non-compliance is not addressed, continues, or gets worse
 - there is other non-compliance.



Infringement notices

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Infringement notices

Provisions

Strict liability offence provisions

There are seven offence provisions for which the Commission can issue infringement notices. These are strict liability offences, which means that when the Commission issues an infringement notice we do not need to weigh evidence or make conclusions about whether someone is guilty or liable.

The penalty for each offence is calculated based on the maximum penalty of 30 units. This is summarised in the table below. Issuing an infringement notice

Offence	Maximum penalty units*
Not complying with a written notice to produce information or documents. <i>Offence under section 74GA of the Commission Act</i>	30 units
Not complying with requests for information about provider suitability and financial matters. This includes information related to refundable accommodation deposits and accommodation bonds. <i>Offences under sections 9-1, 9-2, 9-2A, 9-3A, 9-3B and 52N-3 of the Aged Care Act</i>	30 units

* The amount of money for each penalty unit is set by the [Crimes Act 1914](#) (Crimes Act) and is regularly updated. You can see the current costs in the [penalty amounts payable](#) section of this bulletin.

Civil penalty provisions

There are eleven civil penalties for which the Commission can issue infringement notices. These are calculated based on the maximum penalty for that civil penalty provision. This is summarised in the table below.

Civil penalty	Maximum penalty units*
Victimising by causing harm to a person who has disclosed that they suspect a reportable incident has happened. (These people are called the discloser.) <i>section 54-6(1) Aged Care Act</i>	500 units



Civil penalty	Maximum penalty units*
Threatening to harm a discloser to deliberately cause fear or not caring about the fear you are causing. <i>section 54-6(2) Aged Care Act</i>	500 units
Approved provider not complying with the Code of Conduct . <i>section 74AB Commission Act</i>	250 units
Aged care worker not complying with the Code of Conduct. <i>section 74AC Commission Act</i>	250 units
Governing person of approved provider not complying with the Code of Conduct. <i>section 74AD Commission Act</i>	250 units
A person contravening a banning order . <i>section 74GD(1) Commission Act</i>	1000 units
A corporation contravening a banning order. <i>section 74GD(2) Commission Act</i>	1000 units
Not complying with an Incident Management Compliance Notice . <i>section 74EE(3) Commission Act</i>	60 units
Not complying with a Restrictive Practices Compliance Notice . <i>section 74EE(3) Commission Act</i>	60 units
Not complying with a Code of Conduct Compliance Notice. <i>section 74EE(3) Commission Act</i>	60 units
Not complying with an Information Relating to a Reporting Period Notice. <i>section 74EE(3) Commission Act</i>	60 units

* The amount of money for each penalty unit is set by the Crimes Act and is regularly updated. You can see the current costs on [page 7](#) of this bulletin.



Issuing an infringement notice

Reasonable grounds for issuing an infringement notice

The Commission may issue an infringement notice if we have reasonable grounds to believe that the person or provider has not complied with an offence or civil penalty provision. Reasonable grounds means that there is reliable information to support the belief and a reasonable person would make the same decision.

We base our regulatory activities and decisions on the evidence of the non-compliance. We use the principles in the Commission's [Compliance and Enforcement Policy](#) to decide the appropriate regulatory response.

The Commission assesses all non-compliance with the Aged Care Act or Commission Act against these principles. This ensures our decision to issue an infringement notice is:

- based on the risk to people receiving aged care
- efficient
- fair and consistent
- in proportion to the non-compliance.

If the Commission decides that an infringement notice is the appropriate regulatory response, we must issue the notice **within 12 months** after the day the non-compliance happened.

Information included in an infringement notice

Section 104 of the Regulatory Powers Act lists the information that must be included in an infringement notice. The infringement notice must provide brief details of the non-compliance including:

- the date of the non-compliance
- the time (if known) of the non-compliance
- where the non-compliance happened
- the section of the aged care legislation that was not complied with.

An infringement notice must also include:

- a unique identification number
- the date on which it is given
- the name of the provider or person the notice is for
- the name and contact details of the person who is issuing the notice. This must include that the person is an infringement officer able to give the infringement notice.

The infringement notice also needs to explain:

- the penalty amount that the person or provider needs to pay
- how they can pay the penalty to the Commission
- that the penalty must be paid within 28 days after the infringement notice is issued
- that paying the penalty does not mean that they are admitting that they are liable or guilty
- that by paying the amount they will not be prosecuted or have proceedings seeking a civil penalty order against them in a court
- what happens if they do not pay the infringement notice and the maximum penalty that the court could give them for the non-compliance that led to the infringement notice



- that they can apply to extend the time they have to pay the notice or to have the Commission withdraw the notice
- how the Commission can withdraw the infringement notice and what that would mean.

Penalty amounts payable

The Commission calculates the penalty amount in an infringement notice based on the maximum penalty unit amounts under the Aged Care Act and Commission Act.

The penalty amounts will also be based on whether:

- it is for a single non-compliance or multiple non-compliances
- the non-compliance is by a body corporate, where the maximum penalty is 5 times the set penalty units (which apply to individuals).

An infringement notice is an **allegation** that a person or provider has not complied with the legislation. Under the Regulatory Powers Act, the maximum penalty for an infringement notice will be either 12 penalty units for a person and 60 penalty units for a body corporate **or** one-fifth of the maximum penalty a court could impose for the non-compliance. The maximum penalty for an infringement notice will be whichever of these amounts is the lowest.

For example, if a civil penalty or offence has a maximum penalty of 30 penalty units, the penalty in an infringement notice would be set at 6 penalty units (one-fifth of 30) or less.

The infringement notice penalties are significantly less than the penalty that you might get through a court. The calculations in the table below are based on the current penalty unit amount under the Crimes Act.

Penalty units	Maximum infringement notice amount		Maximum penalty the court can apply	
	Person	Corporation	Person	Corporation
30	\$1,878	\$9,390	\$9,390	\$46,950
60	\$3,756	\$18,780	\$18,780	\$93,900
250	\$3,756	\$18,780	\$78,250	\$391,250
500	\$3,756	\$18,780	\$156,500	\$782,500
1000	\$3,756	\$18,780	\$275,000	\$1,375,000



Options for responding to an infringement notice

Paying the infringement notice penalty

If you pay the infringement notice penalty by the due date, you will no longer be liable for the non-compliance. This means you cannot be prosecuted or have a civil proceeding brought against you in a court.

Paying the penalty does not mean that you have admitted to being guilty or liable for an offence provision. It also does not mean that you have been convicted of an offence.

Choosing not to pay the infringement notice penalty

The person or provider does not have to pay the penalty amount in the infringement notice. If you do not pay the penalty, the Commission will decide whether we will take further regulatory action. This includes the Commission deciding to refer the matter for prosecution or seek a civil penalty order for the non-compliance.

Not paying the penalty and possibly defending the non-compliance in court can result in a higher penalty and the added legal costs of the court proceedings.

Applying for an extension to pay the penalty

The person or provider can apply for an extension of time to pay the infringement notice penalty. A request for an extension of time must be made before the end of the 28-day payment period. It also needs to set out the length of the extension you are asking for and why you are asking for it.

The Commission will consider applications on a case-by-case basis. We will notify the person or provider in writing to say whether we have agreed to the extension or not. If we have approved the extension, we will also include the new payment due date. The person or provider will no longer be liable if they pay the penalty by the new payment due date.

The Commission may agree to extend the time to pay the penalty more than once, as long as each application is made before the end of the current payment period (either the initial period or the extended period).

Asking for an infringement notice to be withdrawn

The Commission may withdraw an infringement notice after receiving a written request for withdrawal. You need to make a request for withdrawal before the end of the 28-day payment deadline. However, you may be able to make a request after this deadline if exceptional circumstances have prevented you from making the request on time. An exceptional circumstance is something unavoidable or unexpected such as a medical emergency or a weather event.

The request must include the reasons for asking for the withdrawal of the notice. If you are making the request after the deadline, you will also need to list the exceptional circumstances.

The Commission can also decide to withdraw an infringement notice without receiving a request for withdrawal.

To decide whether to withdraw an infringement notice, the Commission considers the person or provider's written request for withdrawal and any related information they provide. We may also consider:



- the circumstances of the non-compliance
- whether a court has imposed a penalty on the person or provider in the past for not complying with a provision in the same legislation
- if they have paid an earlier infringement notice penalty for not complying with the same (or similar) provision
- any other information we think is relevant.

The Commission will notify you in writing whether we have decided to withdraw the infringement notice or not.

Even if we withdraw an infringement notice, we may still take regulatory action for the non-compliance. This includes issuing a letter or notice, an enforceable undertaking or referring the matter to a court for prosecution or a civil penalty order under Part 4 of the Regulatory Powers Act.

Publishing information about infringement notices

The Commission and the Department of Health and Aged Care will publish on our [Non-compliance Decision Log](#), and the [My Aged Care](#) website, information about infringement notices for:

- not complying with a Compliance Notice under section 74EE of the Commission Act
- victimising, by causing harm or threatening to cause harm to a person who has disclosed that they suspect a reportable incident has happened. This comes under section 54-6 of the Aged Care Act.

These types of infringement notices will affect a provider's Compliance Rating. This will then affect their overall Star Rating on My Aged Care.

For more information about our Non-compliance Decision Log and aged care Star Ratings on the My Aged Care website, please refer to the [RB 2020-11 Regulatory Bulletin on Publication of provider performance information](#).

Legislative authority

The Commission Act

Section 74EB of the Commission Act gives the Commission the power to use the infringement notice framework. It sets the provisions or terms of the legislation that the Commission can issue an infringement notice for. These provisions include:

- a civil penalty provision of the Commission Act
- a civil penalty provision of Division 54 of the Aged Care Act
- an offence provision in section 74GA of the Commission Act
- an offence provision in Division 9 or section 52N-3 of the Aged Care Act.



The Regulatory Powers Act

Part 5 of the Regulatory Powers Act is the framework we use for issuing infringement notices. This includes the powers and statutory processes that support our administration of an infringement notice, including:

- when an infringement notice can be issued
- what is included in an infringement notice
- the penalty amount that can be in an infringement notice
- the timeframes for issuing an infringement notice and when it must be paid.

Please note: Under Part 5 of the Regulatory Powers Act, the Commission can issue an infringement notice to any legal entity that has not complied with the legislation. This includes an individual (person) or body corporate.

Frequently asked questions

1. Who can issue an infringement notice?

Only the Commissioner or an official authorised by the Commission can issue an infringement notice. This comes under section 101 of the Regulatory Powers Act.

The infringement notice will include the name and contact details of the infringement officer.

2. Can I receive more than one infringement notice for a non-compliance?

The Commission must issue a single infringement notice for each non-compliance with a single provision. This comes under section 103 of the Regulatory Powers Act.

However, some sections of the legislation have ongoing penalties in a single provision. This means that if a person does not do what they are required to do, they are continuing to not comply with that provision*. If the non-compliance is for something that they should have done before a specific deadline, the Commission can issue a single infringement notice to cover multiple non-compliances of that provision. A penalty will be applied to each non-compliance.

If there are non-compliances with different provisions, the Commission will issue separate infringement notices for each non-compliance.

3. Can I appeal or ask for a review of an infringement notice?

You cannot appeal the decision to issue an infringement notice or request a formal review. However, you can ask the Commission to withdraw the infringement notice as provided in section 106 of the Regulatory Powers Act. Alternatively, you can choose not

* See subsection 4K(2) of the Crimes Act 1914 and section 93 of the Regulatory Powers Act.



to pay the penalty amount. However, if the penalty remains unpaid, the Commission may start court proceedings.

4. Can the Commission start court proceedings after issuing an infringement notice?

The Commission cannot start court proceedings during the 28-day period you have to pay an infringement notice. The 28 days start once we have issued the infringement notice. This period allows you to pay the penalty, apply for an extension or ask us to withdraw the notice.

If the penalty is paid within this period, court proceedings cannot be started. After the 28 days, if you have not paid the penalty and no extension or withdrawal request is under consideration, the Commission may proceed with court proceedings.

5. Can the Commission take other regulatory actions against the person or provider while they have an infringement notice?

If an infringement notice is issued, we can still take other regulatory actions to address the non-compliance.

During the 28-day payment period, the Commission will focus on ensuring the safety and wellbeing of people receiving care. We will consider other regulatory actions if you have not paid the penalty by the end of this period.

The Commission can take further regulatory action if the non-compliance that the infringement notice relates to is ongoing or has not been addressed. We can also take regulatory action for other instances of non-compliance.

6. How do I pay the infringement notice penalty?

Payment options are listed in the infringement notice. Options typically include electronic funds transfer (EFT) or cheque payments to the Commission.

7. Can I pay the penalty amount in instalments?

No, the payment of an infringement notice must be made in full. The Commission does not offer an instalment plan for these penalties. However, you can apply for an extension of time to pay the penalty.

Key terms in this bulletin

Civil penalty provision

A civil penalty provision explains that a person or provider may have committed a civil penalty offence if they:

- do not do something they should
- do something that they should not.

Breaching a civil penalty provision can lead to civil proceedings (resulting in a monetary penalty). Non-compliance with a civil penalty provision does not result in a criminal conviction.

Civil penalty

A civil penalty is a monetary penalty imposed by a court in civil proceedings, distinct from a fine imposed in criminal proceedings. If the court finds you have not complied with a civil penalty provision, it may issue a civil penalty. Civil penalty provisions in the Aged Care Act and Commission Act set out monetary penalties.



Infringement notice

An infringement notice is a notice the Commission can issue if a provider or person has not complied with aged care legislation. It details the alleged non-compliance of an offence or civil penalty provision under the aged care legislation. The notice includes information about the penalty amount, payment instructions, and procedures for requesting withdrawal or extending the payment period.

Offence provision

An offence provision explains that a person or provider may have committed a criminal offence if they:

- do not do something they should
- do something that they should not.

Not complying with an offence provision can result in a criminal conviction and a fine from a court.

Non-compliance

An actual failure or an alleged failure to act in accordance with the legislation or a set of rules, regulations, principles or standards.

Penalty unit

A penalty unit is the base amount used to calculate the maximum penalty for non-compliance with an offence or a civil penalty provision. The value of a penalty unit is set by the Crimes Act. A penalty unit is currently \$313 for offences committed on or after 1 July 2023. The penalty unit amount is regularly adjusted based on indexation under section 4AA of the Crimes Act.

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

Need to know more?

If you have any questions or feedback on this bulletin, send an email to: info@agedcarequality.gov.au.

Stay up to date with Regulatory Bulletin releases by subscribing to the Commission's [newsletter](#).

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



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