



Regulatory Bulletin

Publication of provider performance information

RB 2023-18

The Aged Care Quality and Safety Commission (the Commission) undertakes a range of functions to determine whether aged care providers are delivering high quality care and services to aged care consumers.

This Regulatory Bulletin details the information the Commission publishes in accordance the *Aged Care Quality and Safety Commission Act 2018*¹ (Commission Act) and the *Aged Care Quality and Safety Commission Rules 2018*² (Commission Rules) about aged care service providers' performance in relation to their responsibilities under the *Aged Care Act 1997*³ (Aged Care Act), or the Commonwealth funding agreement that relates to a service.

Refer to the Commission's glossary⁴ for definitions of key terms.

Key points

- The Commission is committed to providing transparency of performance information about providers to support consumer choice, promote continuous improvement and performance benchmarking with providers, and to give visibility to the Commission's work.
- The Commission publishes information about a provider's performance in relation to their responsibilities as an aged care provider on the Commission website.
- The Commission Rules require the Commission to publish certain information including performance reports, accreditation and re-accreditation decisions, reconsideration decisions and Administrative Appeals Tribunal (AAT) decisions.
- The Commission also publishes other information on the Commission's website⁵ and the My Aged Care⁶ website about the outcomes of its regulatory and complaints functions including the Service Compliance Rating; non-compliance decisions; complaints directions; and sector performance data.

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

2 <https://www.legislation.gov.au/Series/F2018L01837>

3 <https://www.legislation.gov.au/Series/C2004A05206>

4 <https://www.agedcarequality.gov.au/resources/aged-care-quality-and-safety-commission-glossary>

5 <https://www.agedcarequality.gov.au/>

6 <https://www.myagedcare.gov.au>



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Bulletin number: RB 2023-18

Version number: 1.2

Document number: FRM-ACC-0623

Publication date: 19 January 2023

Replaces: 2020-11 v1.1 published on 18 September 2020

Information in this bulletin applies to:

- All residential aged care services
 - Flexible care services through which short-term restorative care is provided in a residential care setting
 - All home care services
 - Commonwealth Home Support Programme (CHSP) services and flexible care services through which short-term restorative care is provided in a home care setting.
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Attachment: N/A

Notes: This Regulatory Bulletin has been updated to provide information on the legislative provisions and policy supporting the administration and publication of information in relation to Star Ratings and Compliance Ratings, and any other publication changes made by the Commission.

This Regulatory Bulletin does not cover the publication of information relating to:

- performance of National Aboriginal and Torres Strait Islander Flexible Aged Care Program services
 - registration of a person as a quality assessor.
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To be reviewed: 19 January 2024



Publication of provider performance information

Legislative Authority

The Commission Act

The Commissioner has authority, under sections 59(1)(h) and 59A(1)(g) of the Commission Act, to publish:

- information about an approved provider's performance in relation to the provider's responsibilities under the Commission Act or the Aged Care Act
- information about a service provider's performance in relation to the provider's responsibilities under the funding agreement that relates to a Commonwealth Home Support Programme service.

The Commission Rules

Under the Commission Rules the Commission is **required to publish certain decisions**, including decisions relating to the accreditation of residential services, reconsiderations and AAT decisions.

The Commission is also required to publish performance reports following site audits, review audits, quality audits and assessment contacts conducted for the purposes of assessing the performance of a service against the Aged Care Quality Standards (Quality Standards).

Service performance information the Commission must publish

The Commission Rules require the Commission to publish the following information on the [Commission website](https://www.agedcarequality.gov.au/)⁷.

Performance reports

The Commission produces a performance report following every site audit, review audit, quality audit and assessment contact (performance assessment) undertaken with residential or home services.

The performance report details the assessment of the provider's performance against the Quality Standards (compliance or non-compliance with the Quality Standards) in relation to a service. This report is prepared by a delegated Commission decision-maker and takes into account the findings detailed in the Assessment Team's report, any response the provider has submitted and any other relevant information.

The Commission publishes all performance reports following site audits, review audits, quality audits and assessment contacts conducted for the purposes of assessing performance against the Quality Standards with residential and home services.

⁷ <https://www.agedcarequality.gov.au/>



Performance reports are published as soon as practicable after being sent to the provider.

Performance reports can be accessed by searching for the service's dedicated performance information page via the [Find a report](#)⁸ function on the Commission website.

Accreditation and re-accreditation decisions

Sections 48 and 80 of the Commission Rules require the Commission to publish decisions relating to the accreditation and re-accreditation of residential services. These decisions and the timeframes for publication are outlined in the below table.

Decision	Timeframe for publication
To accredit a commencing service or re-accredit a recommencing service made under section 29 of the Commission Rules	As soon as practicable after decision is made
Not to accredit a commencing service or not to re-accredit a recommencing service made under section 29 of the Commission Rules.	<i>If no reconsideration application received:</i> Within 28 days after the end of the reconsideration period
To re-accredit a residential service for a further period made under section 41 of the Commission Rules.	<i>If reconsideration application received:</i> Within 28 days after the reconsideration decision is made
Not to re-accredit a residential service made under section 41 of the Commission Rules.	
To revoke accreditation of an accredited service made under section 44 or 77 of the Commission Rules.	
To vary an accredited service's period of accreditation made under section 77 of the Commission Rules.	
Not to vary an accredited service's period of accreditation made under section 77 of the Commission Rules.	

Decisions related to accreditation and re-accreditation of residential services can be accessed by searching for the service's dedicated performance information page via the [Find a report](#)⁹ function on the Commission website.

⁸ <https://www.agedcarequality.gov.au/reports>

⁹ <https://www.agedcarequality.gov.au/reports>



Reconsideration decisions

Providers may request reconsideration of certain decisions made by the Commissioner. Section 104 of the Commission Rules requires a reconsideration decision that is a regulatory reviewable decision under the Commission Rules to be published by the Commissioner on the Commission's website.

Regulatory reviewable decisions

open to reconsideration are:

- a decision not to accredit a commencing service or not to re-accredit a recommencing service made under **section 29** of the Commission Rules
- a decision to re-accredit a residential service for a further period made under section 41 of the Commission Rules
- a decision not to re-accredit a residential service made under **section 41** of the Commission Rules
- a decision to revoke accreditation of an accredited service made under **section 44 or 77** of the Commission Rules
- a decision to vary an accredited service's period of accreditation made under **section 77** of the Rules
- a decision not to vary an accredited service's period of accreditation made under **section 77** of the Rules.

Reconsideration of regulatory reviewable decisions must be published on the Commission website **within 28 days** of the decision being made.

Information about reconsideration of specific regulatory reviewable decisions can be accessed by searching for the service's dedicated performance information page via the [Find a report](#)¹⁰ function on the Commission website. Refer to the [Commission's Regulatory Bulletin on Reconsiderations of regulatory decisions](#)¹¹ for more information about these decisions.

Administrative Appeals Tribunal decisions

Where a provider is not satisfied with the outcome of a reconsideration decision in relation to a regulatory reviewable decision, the provider may make an application to the Administrative Appeals Tribunal (AAT) for review of the reconsideration decision.

If an application for review of a reconsideration decision by the AAT is received, section 104 of the Rules requires the Commission to publish a notice stating the reconsideration decision is subject to review by the AAT.

Once the AAT has made a decision on the application for review of reconsideration decision, the Commission must also publish the AAT decision on the Commission website.

AAT decisions can be accessed by searching for the service's dedicated performance information page via the [Find a report](#)¹² function on the Commission website.

¹⁰ <https://www.agedcarequality.gov.au/reports>

¹¹ <https://www.agedcarequality.gov.au/resources/regulatory-bulletin-2020-3.0>

¹² <https://www.agedcarequality.gov.au/reports>



Sector performance data

The Commission publishes aged care sector performance reports that include data about residential aged care and home care services.

Data published includes:

- the number of performance assessment activities conducted
- the occasions when non-compliance was found
- the areas where services were found most frequently to be non-compliant with the Quality Standards
- the volume of complaints received, and the issues most frequently raised in complaints
- the number of reportable incident notifications under the Serious Incident Response Scheme.

Sector performance reports are published on a quarterly basis and can be accessed from the [Sector Performance page](https://www.agedcarequality.gov.au/sector-performance)¹³ on the Commission website.

The Commission's non-compliance register

The Commission publishes all provider non-compliance determined by the Commission on a central [non-compliance register](https://www.agedcarequality.gov.au/non-compliance-register)¹⁴.

Information published on the non-compliance register

The non-compliance register is updated periodically with information about provider non-compliance including:

- the name of service and provider of the service
- the Commission's identifier for the service
- the date of the non-compliance
- a summary of the provider responsibility or responsibilities under the Aged Care Act that the non-compliance relates to including non-compliance against the Quality Standards, the Prudential Standards and other responsibilities under the Aged Care Act
- the non-compliance decisions taken by the Commission in response to the non-compliance.

Non-compliance decisions that are only in relation to a provider more generally (not limited to a specified service) are also in the Commission's non-compliance register.

¹³ <https://www.agedcarequality.gov.au/sector-performance>

¹⁴ <https://www.agedcarequality.gov.au/aged-care-performance/non-compliance-register>



My Aged Care website

The [My Aged Care website](https://www.myagedcare.gov.au/)¹⁵ provides information and support to consumers to understand, access and navigate the aged care system. My Aged Care includes information about the compliance status of all residential and home care services. Details of non-compliance decisions made by the Commission in relation to a service can be found through the '[Find a Provider](#)' page of My Aged Care to assist consumers to understand the compliance status of that service.

The information published about non-compliance decisions will include the type of non-compliance decision the Commission has taken, and information about why it was taken and what the provider is required to do in response to the non-compliance decision.

These decisions are displayed as either 'current' or 'non-current', depending on whether the provider has addressed the non-compliance and the Commission has made a decision to close the matter.

Star Ratings

Under the Aged Care Act the Department of Health and Aged Care must publish information about:

- the quality of residential care provided through residential care services; and
- the performance of approved providers of services in relation to responsibilities and standards under the Aged Care Act.

This information may be published in the form of one or more Star Ratings for a residential care service.

Star Ratings support consumers and their representatives to easily compare residential services and make informed choices based on an overall Star Rating and four key areas of performance:

- **Residents' Experience** – at least 10% of older Australians living in residential aged care homes are interviewed face-to-face about their overall experience at their residential aged care home by a third-party vendor annually
- **Compliance** – based on non-compliance decisions made by the Commission and updated daily
- **Staffing Minutes** – derived from reporting under the Quarterly Financial Report and Annual Financial report, case-mix adjusted through the Australian National Aged Care Classification and reported quarterly
- **Quality Measures** – data on five existing quality indicators (pressure injuries, physical restraint, unplanned weight loss, falls and major injury, and medication management) reported quarterly.

The Commission is responsible for the Compliance Rating sub-category of the Star Ratings system.

¹⁵ <https://www.myagedcare.gov.au/>



Compliance Ratings

Consumers and their representatives can see the compliance status of residential services in a comparable format through the Compliance Rating on the [My Aged Care website](#).

Also, the Commission publishes all provider non-compliance determined by the Commission on a central [non-compliance register](#).

A residential service's Compliance Rating is displayed out of 5 stars and based on any current non-compliance decisions about the service:

Compliance rating	Decision type
Significant improvement needed 	Notice of Decision to impose Sanction (NDIS) Notice of Requirement to Agree (NTA) Issuance of Infringement Notice – Victimisation Issuance of Infringement Notice – Compliance Notice
Improvement needed 	Notice to Remedy (NTR) Compliance Notice – Code of Conduct (CCCN)* Compliance Notice – Incident Management (IMCN)* Compliance Notice – Restrictive practices (RPCN)*
Acceptable 	When the Commission is satisfied that all non-compliance has been resolved i.e. (not current non-compliance for up to 1 year) OR Direction to revise plan for continuous improvement that is currently active (PCI)
Good 	No non-compliance for a 1-3 year period***
Excellent 	No non-compliance for 3 years AND has been granted accreditation** for a 3-year period***
Null status (no stars) 	Change in Service Ownership, Commencing Homes/Services, Merged Services

* Only Compliance Notices issued in response to the approved provider's non-compliance with it's responsibility, will be published (that is, under paragraph (a) of the relevant subsection in Section 74EE of the Commission Act)

** Where the accreditation decision was following a site audit

*** Where the service has been operated by the same approved provider by at least that same duration



Providers can improve their Compliance Rating by addressing areas of non-compliance with respect to their aged care service to ensure that they are meeting required standards of care and their responsibilities as an approved provider.

The Compliance Rating will be updated once the Commission is satisfied that the service has addressed the non-compliance. The Commission will close the non-compliance decision and record the compliance on My Aged Care as 'non-current' which will move the Compliance Rating to three-stars, when the Commission is satisfied, based on evidence, that:

- the safety, health, wellbeing and quality of life of consumers are being protected and improved
- the provider has taken the necessary actions to comply with the non-compliance decision and implemented the agreed actions
- the provider is complying with their aged care responsibilities.

Non-compliance decisions

Non-compliance decisions are not published in full document form. The information published will state the name of the provider and relevant service, and the applicable non-compliance decision that has been made by the Commissioner in response to non-compliance at the service. A summary of the non-compliance decision will also be provided to ensure that Consumers and their representatives have information about why it was issued and what the provider is required to do.

The following non-compliance decisions are published on the Commission's non-compliance register and the My Aged Care website:

Directions to revise plan for continuous improvement

A direction to revise a plan for continuous improvement may be issued under section 63A of the Commission Rules to a provider where it is necessary for the plan for continuous improvement to be revised to ensure compliance with the Quality Standards.

Compliance notices

The Commissioner may give a written compliance notice under section 74EE of the Commission Act to a provider, where the Commissioner:

- is satisfied that a provider is not complying with the provider's relevant responsibilities:
 - under section 54 1(1)(e) of the Aged Care Act regarding the incident management provisions; or
 - under section 54 1(1)(f) of the Aged Care Act regarding the Restrictive Practice Provisions
 - under section 54 1(1)(g) or (ga) of the Aged Care Act regarding the Code of Conduct
 - under section 63-1G of the Aged Care Act regarding information relating to reporting periods
- is aware of information that suggests that the provider may not be complying with the provider's relevant responsibilities under 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.

Compliance notices where the Commissioner is aware of information that suggests the provider may not be complying with relevant responsibilities are **not** published on the non-compliance register or My Aged Care.

Non-compliance notices and notices to remedy

Under section 63S of the Commission Act, a non-compliance notice may be issued to a provider if the Commission is satisfied that the provider is or has been non-compliant with one or more of its responsibilities under the Aged Care Act.

The non-compliance notice 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.

If the Commission is satisfied with the provider's response to a non-compliance notice (for example the response acknowledges the areas for improvement set out in the non-compliance notice and proposes actions to remedy the non-compliance), under section 63T of the Commission Act a **notice to remedy** may be issued to the provider. This requires the provider to give the Commission an **undertaking to remedy** the non-compliance referred to in the non-compliance notice.

The undertaking is required to describe and acknowledge the non-compliance that was detailed in the non-compliance notice and commits the provider to undertake the actions proposed in its plan for continuous improvement to remedy the non-compliance.

The notice to remedy is published on the non-compliance register and My Aged Care.

Infringement notices

If the Commission has reasonable grounds to believe that a person (e.g. provider or an aged care employee) has contravened a specified civil penalty provision or a specified offence provision in the Aged Care legislation, the Commission may issue an infringement notice under section 74EB of the Commission Act.

Under section 74EB of the Commission Act, the Commission has powers to issue infringement notices for:

- failing to comply with a Compliance Notice given under section 74EE of the Commission Act
- victimisation prohibited under section 54-6 of the Aged Care Act– causing or threatening to cause detriment to a person who has disclosed that they suspect a reportable incident has occurred.

These notices will be published on the non-compliance register and on My Aged Care.



Notices to agree

Under section 63N of the Commission Act, the Commission may revoke the approval of the provider (a revocation sanction) for non-compliance with their aged care responsibilities. Before imposing the revocation sanction, under 63U of the Commission Act the Commission may first issue the provider with a Notice of Requirement to Agree to Certain Matters (notice to agree).

The notice to agree will require the provider to agree in writing to do one or more things specified in the notice in order to comply with their aged care responsibilities.

The notice to agree is published on the non-compliance register and on My Aged Care.

Notices of decision to impose sanctions

Sanctions are intended to protect consumers – both future and present – and compel the provider to take action to implement changes and sustain compliance. When a sanction is imposed on a provider for non-compliance with its aged care responsibilities, the provider will receive a notice of the decision to impose the sanction under section 63N of the Commission Act. The notice will set out the details of the non-compliance, reasons for the decision, the sanction that will be imposed and the effect the sanction will have on the provider. Sanctions are published on the non-compliance register and My Aged Care once consumers at the sanctioned service and their representatives have been informed about the sanctions imposed.

Directions to take specified action

Directions to take specified action are available to the Commission when undertaking a resolution process in relation to an issue raised in a complaint or provider responsibility information. The Commissioner may issue a direction which directs a provider to take specified action in order to meet their aged care responsibilities.

Directions are given under section 19 of the Commission Rules when the Commissioner is undertaking a resolution process:

- in relation to a complaint made, or information raising an issue or issues about provider responsibilities under the Aged Care Act, the Aged Care Principles, or a funding agreement
- the Commissioner becomes satisfied that a provider is not meeting their responsibilities
- the provider has not responded to a Notice of Intention to Give Directions, or if they have responded, is unable to satisfy the Commission that they are compliant with their responsibilities.

Directions given to the provider to take specified action are published by the Commission on the [Complaints Directions page](#)¹⁶ on the Commission website.

The information published includes the name of the service, the name of the provider, the date the Direction was signed, the summary of specified actions and the date by which actions must be taken.

¹⁶ <https://www.agedcarequality.gov.au/aged-care-performance/directions-issued>



Frequently asked questions

1. Why does the Commission publish information about provider performance?

The Commission is required to publish certain information on the Commission website under the Commission Rules. The Commission also makes publicly available outcomes of its regulatory functions which include complaints resolution processes, performance assessments, and compliance actions in response to a provider's failure to meet its responsibilities as an approved provider. Publication of this information ensures 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 and manage risks and continuous improvement
- inform the public about the Commission's work.

2. Where can I access information about a provider's performance?

Information about a provider's performance is available through the Commission's website and on the My Aged Care website.

Information published on the Commission's website

The [Aged Care Performance section](#)¹⁷ of the Commission's website includes access to a dedicated page for each aged care service detailing current and historical performance information about that service. Performance information available from these pages includes:

- [sector performance data](#)
- [performance reports from quality assessments](#)
- [decisions relating to accreditation](#)
- [non-compliance register](#)
- [complaints directions](#)

Information published on the My Aged Care website

Performance information available from the [My Aged Care website](#)¹⁸ includes:

- Service Star Rating including [Compliance Ratings](#)
- Non-compliance decisions (can be accessed by doing a search for a service via the ['Find a Provider'](#) tool.)

¹⁷ <https://www.agedcarequality.gov.au/aged-care-performance>

¹⁸ <https://www.myagedcare.gov.au/>



3. Are providers given an opportunity to respond prior to the publication of performance information?

The Commission provides procedural fairness to a provider whose rights or interests may be adversely affected by the non-compliance decision in accordance with the principles of administrative law and the requirements of the relevant Aged Care legislation.

The nature of procedural fairness differs across circumstances. In some circumstances, the Commission will notify the provider, setting out the reasons why certain actions are being considered. If a provider has concerns about the publication of performance information related to their service(s), the provider can make a submission outlining their concerns at the same time as they are responding to adverse information prior to a decision being made.

Procedural fairness measures afforded to the provider include:

- **Direction to revise a PCI:** if issued in response to non-compliance detected through an assessment of performance, the provider is provided with a copy of the Assessment Team's assessment report and given an opportunity to make submissions in response to the assessment report. These are considered in finalising the decision on non compliance documented in the published performance report
- **Direction to take specified action:** before the Commission issues a Direction, the provider is notified of the Commission's concerns through a notice of intention to give directions and provided with opportunity to respond those concerns

- **Compliance Notice:** the provider may seek a variation or revocation of the Compliance Notice. The provider may also seek internal review through a reconsideration request, as well as external review by the Administrative Appeals Tribunal
- **Infringement Notice:** the provider may make a submission requesting withdrawal of the infringement notice
- **Notice to remedy:** the provider is given a notice of non-compliance which invites submissions from the provider in response to the non-compliance
- **Notice of decision to impose sanctions and notice to agree:** where the non-compliance is not immediate and severe, the provider may be given notice of non-compliance which invites submissions from the provider in response to the non-compliance. Where there is immediate and severe risk, the Commission may proceed to make a non-compliance decision with no prior notice to a provider, or opportunity for the provider to respond.

Following an adverse decision, the affected provider may seek review of reviewable decisions through the Commission's internal reconsideration process, or external review by the Administrative Appeals Tribunal or Federal Courts or the Commonwealth Ombudsman.



4. What if there is an error in the information published?

The Commission undertakes various checks to ensure the information is correct. However, if an error in the information published is identified, please notify the Commission by emailing info@agedcarequality.gov.au or by calling 1800 951 822.

5. When did Star Ratings commence?

Star Ratings legislation was introduced in the Aged Care Act on 1 December 2022. From 19 December 2022 the My Aged Care website was updated to reflect the Star Ratings system with residential services receiving a rating between 1 and 5 stars to indicate the quality of care across 4 key areas of performance.

6. What information is published regarding assessment contacts (monitoring)?

Assessment contacts (monitoring) are another form of assessment contact that the Commission undertakes with services, in addition to assessment contacts (performance assessment). The purpose of these assessment contacts (monitoring) is to monitor the quality of care and services provided by the service.

The Commission does not publish information about assessment contacts (monitoring) on the Commission website.

7. What information does the Commission publish about accreditation decisions?

Where the Commission has made a decision related to the accreditation or re-accreditation of a residential service, the Commission is required to give written notice of the decision to the provider and publish the decision on the Commission website.

The Commission does **not** publish the full decision document sent to the provider; instead, a paragraph summarising the decision is published. For example, for a decision to re-accredit a service for a further period, the below text is published:

Accreditation decision

Following a site audit conducted on [Activity Start Date] to [Activity End Date], the Commission made a decision on [Decision Date] to re-accredit this service.

The period of accreditation of the service will expire on [Accreditation End Date].

8. What other information about the performance of the service is published with the Compliance Rating?

A comparable summary of the residential service's compliance status against the Quality Standards by the Commission is also published on the [My Aged Care website](https://www.myagedcare.gov.au/)¹⁹.

¹⁹ <https://www.myagedcare.gov.au/>



9. How long does performance information remain published?

Performance reports

Once a performance report about a service is published on the Commission website it will remain published. The reports will not be archived or deleted after a certain period.

This is also the case for services that have closed. The Commission will update the service's dedicated performance information page to advise that the service has closed and the reports will remain available.

Decisions relating to accreditation

Once decisions relating to the accreditation and re-accreditation of a service including reconsideration decisions and AAT decisions are published on the Commission website, they will remain published. The decisions will not be archived or deleted after a certain period.

This is also the case for services that have closed. The Commission will update the service's dedicated performance information page to advise the service has closed and all historical decisions made in relation to the service will remain available.

Non-compliance register

Information about a provider's non-compliance in relation to a service is published in the Non-compliance register; after a month the information will then be moved to an archives page on the Commission website. The archives page can be accessed via the [Non-compliance register page](#)²⁰.

10. Will there be an enduring record of a Compliance Rating?

The My Aged Care website displays the compliance history of services indefinitely, and a 3-year history of the actual Compliance Ratings for the service will also be displayed.

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](#)²¹.

²⁰ <https://www.agedcarequality.gov.au/aged-care-performance/non-compliance>

²¹ <https://www.agedcarequality.gov.au/subscribe>

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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