

Aged Care Quality and Safety Commission Regulatory Strategy

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Australian Government

Aged Care Quality and Safety Commission

Engage
Empower
Safeguard



Foreword

This strategy sets out the Aged Care Quality and Safety Commission's (the Commission) approach to delivering regulatory functions under the *Aged Care Quality and Safety Commission Act 2018* (Commission Act), in accordance with the Aged Care Quality and Safety Commission Rules 2018 (Commission Rules). Amendments to both the Act and the Rules in late 2019 provided for the transfer to, and integration into, the Commission from 1 January 2020 of specific aged care regulatory powers previously exercised by the Commonwealth Department of Health. This strategy outlines the way in which the Commission will use a proportionate, risk-based approach to achieving its regulatory objectives.

The Commission provides a single point of contact about aged care quality and safety issues for consumers and providers of aged care, facilitating a responsive regulatory, compliance and complaints system informed by both consumer and aged care provider input.

The purpose of any regulation is to protect the public interest. Contemporary best practice regulation also aims to create public value by improving services and outcomes for consumers. This involves changing provider behaviour in a sustained manner, and the design of health and social service regulatory schemes in Australia and internationally informs us that neither persistent punishment nor persistent persuasion is effective on its own in achieving this. What is required is a suite of regulatory and compliance tools. In pursuing our regulatory objectives, the Commission will use the full range of complementary functions under the Commission Act that enable the Commission to better manage risks and identify and respond appropriately to instances of failure.

Regulating aged care requires clarity about the risks being addressed. The Commission applies a risk-based proportionate approach to regulation. This means the focus of our activities is on the areas of greatest risk to the safety, health and well-being of aged care consumers, and on those providers providing care and services that fall short of legislated standards. It also means that we look to the evidence of what works in aged care practice and draw the sector's attention to this as appropriate. We use education, information and targeted communications to support our regulatory objectives, including publishing outcomes of our regulatory activities to support greater transparency and accountability.

The Commission seeks to promote an aged care system that empowers consumers, develops safer systems of care, inculcates a culture of safety and quality, and learns from mistakes. A system operating in this way will give the community in



general, and older Australians in particular, confidence that the aged care they access will meet their needs and provide the best possible experience and outcomes.

The Commission will listen to and actively seek feedback from stakeholders to develop a critical and detailed understanding of how our regulation of aged care plays out across the system, in provider organisations and in the day-to-day care experienced by consumers. We will monitor our own performance, pursue continuous improvement, and seek to be transparent and accountable for our actions.

Janet Anderson PSM
Commissioner

1 January 2020



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1. Introduction

1.1. The purpose of this document

The purpose of the Commission's Regulatory Strategy is to provide clarity and transparency about the Commission's approach to regulation. As an overarching strategy it informs the Commission's operational policy and engagement with stakeholders.

This document underpins communication with three main audiences: regulated entities, the Australian community, and the decision makers and staff of the Commission. It aims to achieve the following objectives for each of these audiences:

- **Australian community** – Allowing those who regulation is intended to serve (consumers of aged care and their families) and the community more broadly to understand the way in which the Commission operates to deliver outcomes.
- **Providers of aged care** – Providing a clear statement of how regulated entities (that is, aged care providers recognised under the *Aged Care Act 1997*) can expect the Commission to undertake its regulatory functions. It is also aimed at representatives of regulated entities, such as peak bodies.
- **Staff of the Commission** – Establishing a consistent framework for operationalising policy across the Commission and for holding ourselves to account for our performance.

1.2. The Commission's functions

The Commission is established under the Commission Act. Its operations are further defined in the [Commission Rules](#).

The Commission's primary functions are to protect and enhance the safety, health, well-being and quality of life of aged care consumers; and to promote the provision of quality care and services by approved providers of aged care services; and service providers of Commonwealth-funded aged care services.

Specifically, the Commission functions are as follows:

- consumer engagement
- approval of providers for the delivery of residential aged care services, home care services and flexible care services



- registration of persons as quality assessors
- accreditation of residential aged care services and quality audits of home services and monitoring the quality of care and services provided
- complaints resolution
- administration of the responsibility of approved providers to make compulsory reports of assaults and unexplained absences
- education functions
- compliance and enforcement actions, including monitoring the compliance of approved providers and imposing sanctions where approved providers do not meet their aged care responsibilities.

These complementary functions work to enable the Commission to help manage risks in the aged care sector and respond appropriately to incidents and departures from expected performance or outcomes.

On 1 January 2020 the Commission became responsible for approval of providers, aged care compliance (including Prudential Standards) and compulsory reporting which were previously the responsibility of the Secretary of the Department of Health. This provides the Commission with a broader range of regulatory functions and powers to oversee the provision of care by approved providers, from their entry to their exit (if required) from the regulatory system.

Centralising these regulatory functions and powers within a single regulator provides greater clarity of the regulatory model for providers and consumers of care. It supports more effective triage of poor performance into voluntary and enforceable compliance pathways, allowing the Commission to shift to enforceable regulatory responses when risks are unresolved or escalate, rather than applying the same treatments.

1.3. Defining regulatory outcomes

The outcome we seek is to protect and enhance the safety, health, well-being and quality of life of aged care consumers. Doing so will require effective engagement with consumers, alongside education and regulation of Australian Government funded aged care providers, and resolution of complaints about providers.

We aim to build confidence and trust in aged care, empower consumers, promote best practice service provision, promote quality standards and hold providers to account for their performance against the expected standards of care.



The Commission seeks to promote an aged care system that develops safer systems of care, inculcates a culture of safety and quality, and learns from mistakes, while providing the oversight that can assure the community that aged care services are operating as they should, including working on continuous improvement.

Regulation is necessary but not enough to drive sustainable improvement in aged care. Other stakeholders who also exercise significant influence on the quality and safety of care and services include:

- consumers who use services alongside their representatives, family and carers
- care staff and visiting health practitioners who provide care for consumers
- aged care providers, particularly at the board, executive and management levels
- the Department of Health through its policy and funding responsibilities
- researchers and universities
- the broader community and media.

The Commission recognises that action is required by all these stakeholders to make lasting, positive changes in aged care.



2. Describing our regulatory approach

2.1. Engaging and empowering consumers

Recent reforms to the regulation of aged care in Australia have emphasised the centrality of consumers in the co-design and continuous improvement of aged care services. This is supported by the Charter of Aged Care Rights and the Aged Care Quality Standards (the Quality Standards). These provisions focus on consumer outcomes and support a partnership approach between providers and their consumers for the planning and delivery of aged care services.

There is strong, widespread commitment to an aged care system that focuses on the needs of consumers. A growing number of aged care providers have actively embraced this approach, taking steps to embed consumer focused care principles into practice and provide care and services that specifically address the needs, goals and preferences of individual consumers.

As indicated above, the Commission has an explicit function and role to play in developing and promoting participative models for providers to engage and empower their consumers in co-design and continuous improvement of service delivery.

The Commission's regulatory approach recognises the importance of engaging with consumers, their families and carers, as well as consumer peak bodies and advocates in understanding outcomes for consumers of Australian Government funded aged care services and using this information to inform regulatory policy and design.

Interviews with consumers and their representatives are integral to our assessment of a service's performance against the Quality Standards. They ensure a deep understanding of consumer outcomes in relation to the Quality Standards and strengthen the consumer voice about the quality of care they receive.

2.2. Dealing with complaints

The Commission provides a single point of contact for consumers and aged care providers in relation to quality of care and regulation. This facilitates a more responsive regulatory, compliance and complaints system informed by both consumer and provider input.



The Commission deals with complaints relating to an aged care provider's responsibilities under the *Aged Care Act 1997* and the Aged Care Principles (which include the Quality Standards), or under its funding agreement with the Australian Government. Anyone may raise a concern or complaint with the Commission about providers of any Australian Government funded residential or respite care, home care, Commonwealth Home Support Programme services and flexible care. They can choose to do so openly, anonymously or confidentially. Each issue raised in a complaint is assessed and must be managed through resolution processes set out in the Commission Rules.

If the Commission is not satisfied that the provider is meeting its responsibilities under the *Aged Care Act 1997*, the Principles or its Commonwealth funding agreement, the Commission can direct the provider to take specified actions. Independent of any specific complaint, the Commission can initiate a resolution process where, for example, a complaint has been finalised or withdrawn but further serious issues have been identified, or multiple complaints have been received on the same issue.

The Commission provides clear information and resources about consumers' rights to make a complaint and what consumers can expect when they make a complaint to the Commission. This information is available on the Commission's website and promoted through consumer advocacy groups, and the Commission's communication channels.

Information gathered during complaint resolution processes is used to inform the Commission's regulatory and education functions (and vice versa). This ensures that Commission staff are informed by integrated information on the performance of aged care services. Complaints information assists the Commission to understand the relative risk of an aged care provider's non-compliance with the Quality Standards and the behaviour of the provider in relation to meeting its broader responsibilities for quality care and services.

2.3. Oversight of risk

The Commission acknowledges that Government cannot regulate to remove all risks or all contributing factors to non-compliance with provider responsibilities including the Quality Standards.¹ We know we are part of a system with many influences on quality.

¹ Organisation for Economic Co-operation and Development (OECD) 2010, *Risk and Regulatory Policy: Improving the Governance of Risk*.



Providers are responsible for meeting the expected standards of care and other requirements of the *Aged Care Act 1997* and to have effective governance systems in place to assess, monitor and drive improvement in the quality and safety of the care and services they provide. Improvement first and foremost should happen because of efforts from the providers themselves.

Effective governance to address the risks of substandard care requires effective oversight, accountability and responsibility at a number of levels. This is shown in Diagram 1: Governance of Risk (below):

By the **provider**:

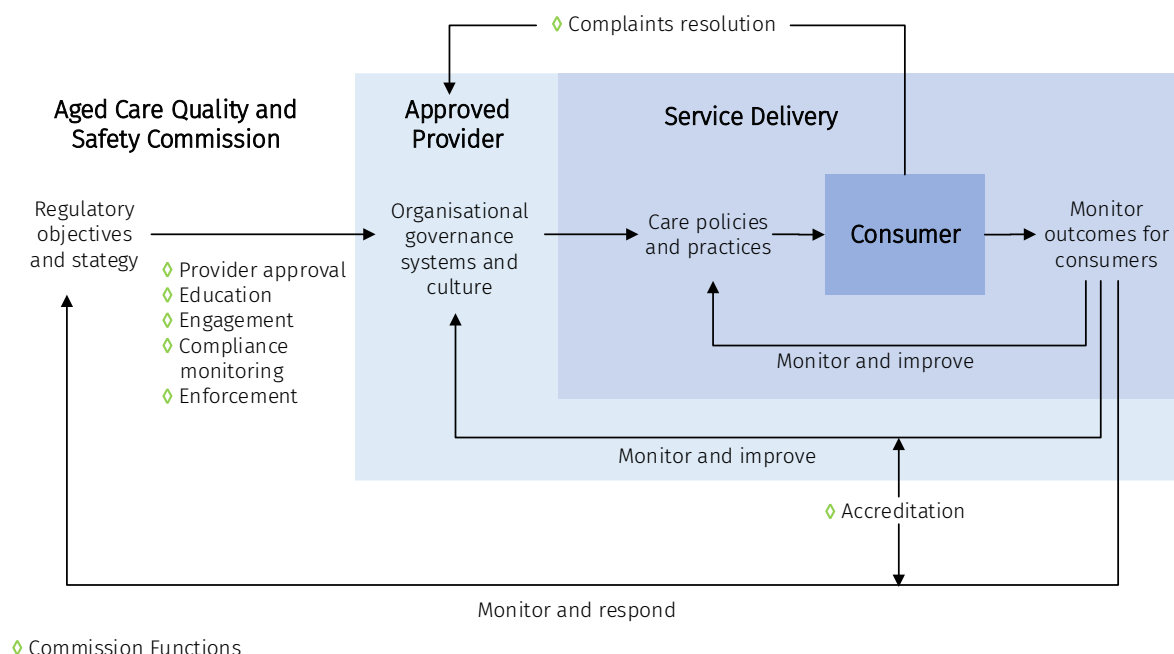
1. **Service delivery** - managing risks at the point of care for individual consumers, where service staff apply relevant practice standards, monitor their effectiveness and solve quality problems to improve outcomes for consumers
2. **Organisation** - managing risks systemically in the organisation, monitored by senior managers who seek feedback and in response, improve their management systems, culture and practices to ensure and sustain improvements and share organisational learning. Organisational governance systems and culture is set and monitored by the board or governing body to drive quality and safety.

By the **regulator** (the Commission):

3. **The Commission** holds the provider to account for the quality of care and services and takes action using a range of regulatory tools when this is not the case to enforce standards and obligations. This includes:
 - assessing and approving providers for the delivery of residential, home care and flexible care services and undertaking compliance and enforcement actions, including imposing sanctions where approved providers do not meet their aged care responsibilities
 - assessing and monitoring the performance of individual aged care providers against the Quality and/or Prudential Standards, and holding them to account for returning to full compliance where they are not meeting the Quality and/or Prudential Standards
 - monitoring system-wide performance against the Quality Standards to ensure that providers of services in general are meeting public expectations of quality and safety, and publishing information on relevant measures of sector-wide performance to assist providers to identify and examine their own risks
 - working proactively with others, including consumer advocates, public guardians, state, territory, and federal regulators to share information

and better understand the nature of risk in aged care and problem-solve our responses to potential harms.

Diagram 1: Governance of risk



This approach supports a learning system with interaction feedback across the levels: at the point of care delivery; at the level of organisational response; and by the Commission as regulator in terms of what we learn from monitoring the system as a whole and providing feedback on performance and risk.

2.4. Defining responsive risk-based regulation

Our regulatory strategy is based on a responsive risk-based approach.

- *Risk-based* means the focus of our activities is on the areas of greatest potential harm to safety, health and well-being of aged care consumers.
- *Responsive* means we respond to the context, conduct and culture of the organisations we regulate when we decide what action to take.

This means that we will modify our program and direct our resources in response to the **nature of risks** to the safety, health, well-being and quality of life of aged care consumers and the **circumstances and behaviour of the provider of the service or services that we regulate**.

A responsive risk-based approach is applied at two levels:



1. systemic or sector-wide risks are those that the sector as a whole faces, or a group of providers within the sector faces
2. individual provider risks.

Our detailed regulatory strategy in relation to these two levels follows.

2.5. Understanding and responding to systemic risk

The Commission identifies sector-wide risks through research, sector trend analysis and strategic conversations with consumers and providers. Key inputs to the systemic risk priorities include:

- regulatory performance data and trends
- complaints data and trends
- consumer feedback
- advice received from the Commission's Quality and Safety Advisory Council
- advice received from the Commissioner's Chief Clinical Advisor
- other key Australian Government priorities.

Our response will be evidence-based, tailored and targeted to the problem or opportunity to be addressed, the systemic factors contributing to it, and how the Commission can interact effectively to change behaviour to improve outcomes.

This may involve a targeted regulatory campaign. A problem-solving approach is applied to tailor regulatory campaigns and responses using the regulatory tools available to the Commission and best suited to the problem we are targeting.

The current systemic risk priorities are posted and updated on the Commission's [website](#).



Examples of response to sector-wide risk

Example 1: In response to a major influenza outbreak, infection control was identified as a sector-wide risk. The regulator's sector-wide response was:

- surveying all residential aged care providers about their practices
- running an information campaign
- focusing quality monitoring activity on the relevant standards.

Example 2: In response to concern that antipsychotic medicines are being prescribed inappropriately in residential aged care, the regulator's sector-wide response was:

- risk screening questions added to quality monitoring visits
- strengthening guidance for providers under Quality Standards
- participating in an expert advisory group to Government
- implementing new measures to strengthen regulation of restraint.

2.6. Understanding and responding to individual provider risk

All providers must build a service culture of quality, safety and risk management. This means more than just preventing harm. The Commission wants to understand how well a provider identifies and manages its own risk, and how it applies risk management to improve consumer outcomes. In determining a regulatory response to an individual service, the Commission considers both:

- **harm to the safety, health, well-being and quality of life of consumers (consequence of failure in care)** including through the delivery of care
- **trust of the provider (likelihood of managing harm)** based on provider capacity and provider/service history.

These two elements influence the frequency and scope of assessments to focus on matters that are identified as risks for the provider of the service and in terms of achieving the Commission's objectives; and management actions for any non-compliance with provider responsibilities.

The Commission uses a range of performance information, including non-compliance with the Quality and/or Prudential Standards, complaints data and non-compliance with other responsibilities under the *Aged Care Act 1997*, to



understand the likelihood and consequence of the risk occurring. We also work with other regulators and entities where appropriate to inform this.

Examples of performance data and information to understand provider risk include:

- history of compliance with provider responsibilities
- history of provider's performance against the Quality Standards in relation to the service (or relevant standards prior to implementation of the Quality Standards)
- history of provider's performance against the Prudential Standards and/or other pecuniary responsibilities
- performance across the provider's range of aged care services
- information from complaints or compulsory reporting
- information from the Department of Health
- information from the Quality Indicator Program
- information from other bodies, including the media, public, police, other regulators and from state, territory and local governments
- performance of the provider compared with similar services
- size of the service, and any recent changes
- service's consumer profile, and any recent changes
- number and proportion of high-needs and complex-needs consumers.

We also know that some circumstances will increase service risk such as:

- material change in key personnel
- building works or renovations in progress
- rapid expansion or change in service offering.

The Department of Health, in consultation with the Commission, is working on an initiative to enhance the Commission's risk profiling of services. When available, this will further inform the Commission's understanding of circumstances that increase risk at a service.

The characteristics of a provider's service are not considered in isolation by the Commission. The actions or behaviours of the service's provider have the potential to fundamentally change the assessed level of risk. The Commission is interested in the extent to which the provider has the culture and systems to prevent and



manage its own risk, apply better practice, learn from mistakes, monitor its effectiveness and solve its own quality problems to improve outcomes for consumers.

In a regulatory context, the dimensions of behaviour relating to regulatory obligations are often referred to as **compliance posture**. This can broadly be categorised by Table A (below).

Table A: Compliance posture in a regulatory context

| | | |
|-------------------------------|--|---|
| Continuous Improvement | Requiring improvement Trying but not always succeeding e.g. Occasionally make errors, misunderstand what is required, or temporarily lose focus. Or through lack of capability or capacity, may have occasions where they are unable to meet the requirements. | High Performing Complying and demonstrably committed to continuous improvement e.g. Going beyond compliance and embedding consumer well-being, quality and safety into all aspects of organisational life. |
| | Failing Demonstrating serious failure to comply and not committed to continuous improvement e.g. avoid compliance obligations, experience repeated failures and do not act to improve the well-being and quality of life of their consumers or, even more seriously, to prevent harm to them. | Complying Meeting obligations but can do more to continuously improve e.g. have done what is necessary to comply but focus on compliance may mean inattention to opportunities for continuous improvement of consumer well-being, quality and safety. The term “calculative compliance” has been used. |
| | Compliance | |

The Commission also recognises that providers can operate a range of services at multiple locations. When we identify performance issues and trends relating to a provider, these may not be limited to one service. For example, the Commission may challenge a large provider about the poor quality of care that has been evident in several of its services.



Example of response to provider risks

In response to identifying that a provider had many services where consumers were not receiving their medication in a safe way, we:

- took action to monitor performance in each of the services
- had a broader conversation with the executive of the provider to highlight the issue as a corporate problem and to hold them to account for this
- subsequently observed a change in the provider's overall policy and investment in key staff to improve the approach to medication management across all services.

2.7. Determining appropriate regulatory action

The Commission deploys regulatory interventions that consider the full range of functions and powers available under the Commission Act as tools to achieve our objectives. In regulating the sector, the action we may take if a provider of a service demonstrates they are willing and able to comply and to take all reasonable steps to do so 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 range of Commission tools includes:

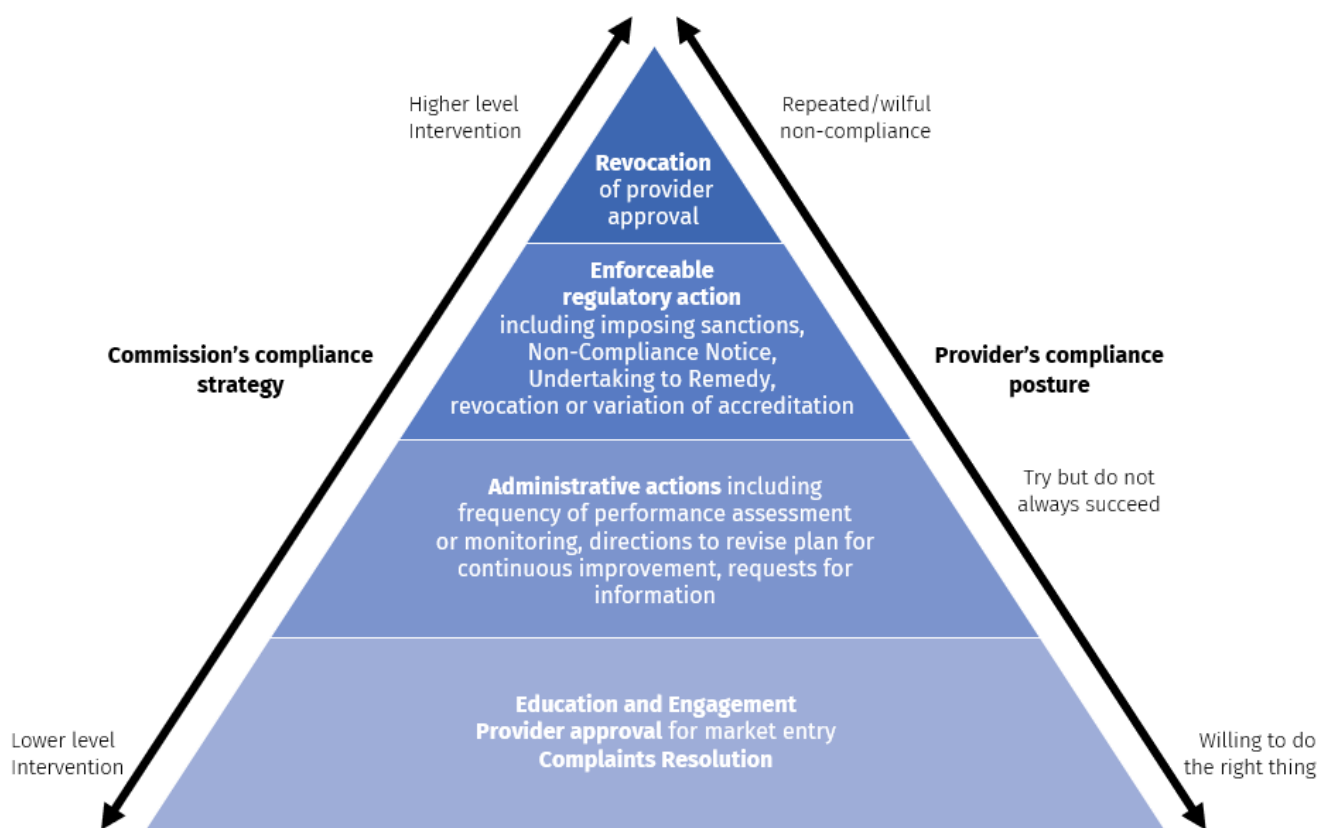
- education of consumers and providers
- complaints resolution where the outcome results in an informed, empowered consumer and (where required) improvements in care implemented by the provider; or the utilisation of information to inform other regulatory action such as assessing performance against the Quality Standards or escalating a matter for taking compliance action
- publication of performance data
- assessment of performance against the Quality and/or Prudential Standards and identifying areas for improvement to be addressed in a provider's plan for continuous improvement or escalating requirements to remedy non-compliance
- assessment and investigation of home care package provider performance in managing consumer fees and other financial obligations

- managing non-compliance by taking compliance and enforcement actions, including monitoring return to compliance of providers
- penalties for persistent and/or serious non-compliance with approved provider aged care responsibilities including through imposing sanctions, or suspension or revocation of approval of an approved provider.

This approach is often represented in a **regulatory pyramid** with co-operative and persuasive approaches at its base and more specifically targeted and more interventionist regulatory tools at the top.

The Commission's Regulatory Pyramid is depicted in Diagram 2 (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.

Diagram 2: Regulatory pyramid





2.7.1. Market entry

The Commission assesses applications from potential providers. A risk-based approach is applied to determine suitability to provide care. Approved providers must meet minimum requirements under legislation for approval and continue to meet relevant obligations including notification of material changes to their circumstances.

2.7.2. Education and engagement to assist the provider to continue to comply

As a general rule, following a risk assessment where there is no non-compliance and lower levels of risk, the Commission will use education and advice to encourage and promote ongoing compliance. Our broad-based education and engagement functions have sector-wide reach. We use information as often as possible when it is likely to achieve the desired outcomes. Targeted compliance assistance can also be provided through a case management approach.

2.7.3. Complaints Resolution

The Commission deals with complaints relating to an aged care provider's responsibilities under the *Aged Care Act 1997* and the Aged Care Principles. Each issue raised in a complaint is assessed and managed through a resolution process. If the Commission is not satisfied that the provider is meeting its responsibilities, the Commission can direct the provider to take specified actions. The Commission also uses complaints information and trends to support its regulatory response informed by both consumer and provider input.

2.7.4. Managing non-compliance

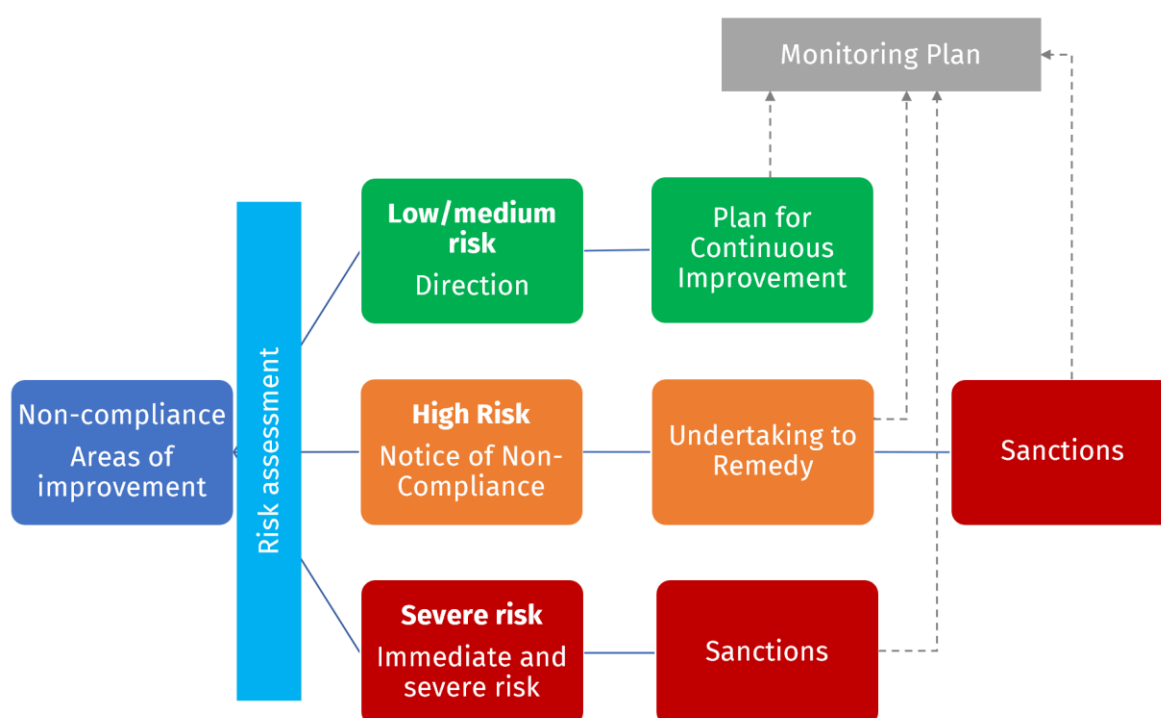
The Commission takes a risk-based approach to monitoring the quality of care and service provided by providers of aged care services. When a performance assessment of a service indicates that the care and services provided do not meet the Quality Standards, the Commission will consider whether the provider complies with the Quality Standards. A provider is provided with an opportunity to respond to information regarding the performance assessment before the Commission makes the compliance decision.

When deciding that the provider is non-compliant with the Quality Standards, the Commissioner may also decide where there are areas for improvement that must be made to comply with the Quality Standards.

The Commission takes a similar approach in response to non-compliance by an approved provider with obligations in relation to the Prudential Standards, Home Care fees and operations, and compulsory reporting obligations.

The Commission's response to non-compliance is proportionate to the level of assessed risk (Diagram 3, below). A risk assessment is completed with new information or intelligence regarding the provider or service and considers harm to consumers (consequence) and trust of providers (likelihood of managing harm).

Diagram 3: Risk-based management of non-compliance



Attachment A: Regulatory management following non-compliance provides further details on the full range of regulatory tools available to the Commission in managing non-compliance with the Quality Standards.

The Commission's approach to dealing with areas identified for improvement and non-compliance with the Quality Standards is set out in a Regulatory Bulletin. [Refer to Regulatory Bulletin Issue No. 2019-4.1 Responding to non-compliance with the Aged Care Quality Standards](#). Regulatory Bulletins are updated to address changes in the legislation, case law, or changes in the Commission's operating policy.



3. Transparency of performance information

The Commission is committed to transparency about the outcomes of its regulatory and complaints functions to:

- help consumers make informed choices about aged care services
- enable providers to benchmark their performance and manage risks and continuous improvement
- inform the public about the Commission's work.

The Commission publishes the following information on its website, for consumers, providers and the public.

3.1. Performance reports

The Commission publishes every performance report following an accreditation site audit or review audit of a residential aged care service. These reports include an assessment of the provider's performance in relation to the service against the Quality Standards (compliance or non-compliance with the Quality Standards).

The Commission is committed to making more information available from other quality monitoring regulatory activities. From 1 July 2020, we will publish performance reports following quality reviews with home services and performance reports following assessment contacts. This information will include reporting on additional functions that the Commission manages from 1 January 2020.

3.2. Reporting sector performance trends

The Commission publishes a range of sector performance measures on a monthly basis. 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.



3.3. Reporting regulatory decisions

The Commission makes regulatory decisions about a provider's compliance with the Quality and/or Prudential Standards and specific responsibilities including mandatory reporting obligations. The following information regarding the Commission's decisions are published either on the Commission's website or My Aged Care.

The Commission will publish information on the Commission website about **Directions to revise a plan for continuous improvement**. The information published includes the name and RACS ID of the service, the name of the relevant provider, the reasons for the direction and the date of issue.

The information is published each month with retired data available through an archived provision.

When a **Non-Compliance Notice** is issued, the approved provider has an opportunity to respond to the notice. After the Commission has considered any submissions, information regarding the Non-Compliance Notice may be published on the My Aged Care website.

The information published includes the name and address of the service, the name of the relevant approved provider, the reasons for the Non-Compliance Notice and the date of issue. A Non-Compliance Notice will appear on the "Current Non-Compliance Notice" page until the approved provider has addressed the non-compliance. At this stage, the information will move to an "Archived Non-Compliance Notice" page where it will remain for a period of two years. If the non-compliance is not addressed by the approved provider within the timeframes set, the Commission may impose sanctions.

Information on all **sanctions** imposed is published on the My Aged Care website. The information published includes the name and address of the services, the name of the approved provider, the sanctions imposed under the *Aged Care Act 1997*, the reasons for imposing sanctions, relevant dates and the status of the service.

Information on sanctions imposed is never deleted. Once a sanction expires, or is lifted by the Commission, the published information is moved from "Current Sanctions" to "Archived Sanctions". "Archived Sanctions" contains information on all sanctions imposed by the Department of Health (prior to 1 January 2020) and the Commission (from 1 January 2020).



3.4. Reporting on complaints directions

In dealing with complaints, the Commission may issue a **complaints direction** to a provider where the Commissioner is satisfied that the provider is not meeting provider responsibilities under the Aged Care Act, or the Aged Care Principles, or funding agreement in relation to an issue raised in a complaint.

The Commission will publish information about complaints directions made each month. The information published includes the name of the service, the name of the approved provider, the date the Direction was signed, the summary of actions to be met and the date by which actions are to be met.

The publication is updated monthly with retired data available through an archived provision.



4. Informing and working with stakeholders

Through our engagement with a broad range of stakeholders, we aim to build confidence and trust in aged care, empower consumers, advise providers on their responsibilities including compliance with Quality Standards, and promote best practice service provision.

To support effective engagement with key stakeholders, the Commission has a range of engagement channels including:

- Aged Care Quality and Safety Advisory Council, a statutory advisory body with the chair and members appointed by the Minister; it meets 6 times a year
- Commission Consultative Forum, consisting of national consumer and provider representatives which is chaired by the Commissioner and meets 2-3 times a year
- State Consultative Forums, chaired by Regional Directors in collaboration with other Commission Directors in the regional network, meeting 2-3 times a year
- Commission National Symposium, a new national event which will bring together key stakeholders, including health professionals, other regulators and workforce representatives to discuss critical issues impacting on quality and safety in aged care
- meetings with peak organisations, in the form of regular separate meetings with consumer and provider peak organisations involving the Commissioner and executives.

The Commission also engages directly with the sector through our monthly newsletter, the [Aged Care Quality Bulletin](#). In addition, our Better Practice events and education programs are designed to assist with promoting leading industry practice.

Through the above channels, the Commission provides guidance and information to providers on what they need to do to meet public expectations and fundamental standards of quality, through our information, education and compliance programs.

Open and active communication is used as a tool for effective regulation and continual improvement. The Commission is committed to regular publication and



dissemination of information on performance as a key part of promoting a learning system.

The Commission provides transparency in our application of particular provisions of the Commission Rules through the release of [Regulatory Bulletins](#). These are focussed on specific parts of the regulatory architecture and provide detail for providers on what to expect and how the provisions are applied. Where changes are made to the regulatory framework, for example the introduction of a new policy or approach, the Commission will use these bulletins to communicate it. They include relevant case examples and frequently asked questions and answers. The Bulletins are published on the Commission's website.



5. Monitoring and improving our performance

Understanding our impact as a regulator is essential to the way the Commission works and improves. We incorporate measures of performance into our corporate and business planning and monitor these as we pursue our objectives. We seek and welcome feedback on our performance from those we regulate.

As a key element of our regulatory practice, the Commission is strengthening its framework for supporting and monitoring consistent assessment of performance under the Quality Standards. The training and support for our quality assessors has a focus on risk-based, evidence informed performance assessments.

The Commission is strengthening its approaches to detect and manage providers' non-compliance with responsibilities under the Prudential Standards, in relation to Compulsory Reporting in residential aged care, and with respect to specific requirements of Home Care providers.

The Commission's approach to improving its regulatory functions is informed by the Government's Regulator Performance Framework which provides a common set of performance measures for increased accountability and greater transparency in the way regulators perform their role.

All regulators are required under the Framework to undertake annual self-assessments of their performance against their agreed evidence metrics. The results of self-assessments are validated by approved stakeholder consultation mechanisms and certified by each regulator's relevant Accountable Authority under *Public Governance, Performance and Accountability Act 2013*.

The self-assessment reports of the Commission are published on our website. Further information about the Regulator Performance Framework can be found on the website of the [Department of Employment, Skills, Small and Family Business](#).

The Commission is also accredited by the International Society for Quality in Health Care. We utilise this international network to inform continuous quality improvement at the Commission.



Attachment A: Regulatory management following non-compliance

| | | | |
|-------------------------|--|---|---|
| Administrative response | Administrative action may apply where risk is assessed as low or medium. | Direction to revise plan for continuous improvement | 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 escalate regulatory action. |
| | Administrative engagement allows the Commission to bring the non-compliance to a provider's attention and encourages the provider to rectify the non-compliance. | Frequency of performance assessment or monitoring | The Commission will determine both the form and frequency of performance assessment or monitoring contact with the provider following review of the revised plan for continuous improvement (develop a monitoring plan). |
| | | Requests for information and provider engagement | The Commission may request information from the provider and increase engagement to support a return to compliance. |



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| Enforceable regulatory response | <p>Enforceable regulatory action may apply where risk is assessed as high or severe.</p> <p>Regulatory action allows the Commission to actively encourage the provider to return to compliance with its responsibilities as quickly as possible and/or to deter the provider from future non-compliance.</p> | Variation or revocation of accreditation | <p>For residential services, where a site audit or 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 not re-accredit a service (site audit), to revoke accreditation of a service (site audit or review audit) or vary the accreditation of the service (review audit).</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 under the Act.</p> <p>The NCN advises the provider of the non-compliance and gives the provider the opportunity to respond.</p> |
| | | Notice to Remedy (NTR) | <p>If the Delegate is satisfied with the provider's response to an NNC, an NTR may be issued which requires the provider to remedy the non-compliance within a certain period.</p> |
| | | Undertaking to Remedy (UTR) | <p>In response to the NTR, the provider gives the Commission an UTR committing to take the required actions within the specified timeframes.</p> |



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| | | Sanctions | If the Delegate is not satisfied with the provider's response to the NNC or where there is immediate and severe risk, the Delegate may issue a Notice of Decision to Impose Sanctions (NDIS). This notifies the provider, in writing, of the Delegate's decision to impose one or more sanctions on the provider. |
| | | Immediate and severe risk | <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 will respond by issuing a sanction.</p> |
| Revocation of approved provider status | <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 approval of approved provider | <p>Revocation of approval of approved provider can be initiated by the Commission either:</p> <ul style="list-style-type: none">• as a result of Sanction or failure to comply with the avoidance provisions of a Sanction• because the provider has ceased to be suitable for approval. |