Strengthening Provider governance – Commission reform webinar Q&As

The information is current as at 14 December 2022. This document will be regularly updated. For more information on strengthening provider governance, please refer to the Commission's aged care reform web page. The table below provides an overview of the service types that will be subject to each of the 4 reforms, including strengthening provider governance, under the *Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022* that are directly relevant to the regulation of aged care.

Reforms from a regulatory perspective	Residential	Short-term Restorative Care – Residential	HCP	Short-term Restorative care - HC	CHSP	NATSIFAC	Transition Care	MPS	Explanatory Notes
Code of conduct	✓	✓	✓	✓			✓	✓	The Code of Conduct responsibilities under the Aged Care Act 1997 will not apply to service providers of CHSP and NATSIFACP or their workforce from 1 December 2022. This is because the responsibilities under the Aged Care Act apply to approved providers. CHSP and NATSIFACP service providers are not approved providers under the Aged Care Act. It is expected that similar provisions will be extended to all Commonwealth-funded aged care services as part of the planned introduction of a new aged care Act.
Strengthened Governance	✓	✓	✓	✓			✓	✓	CHSP and NATSIFAC will be considered as part of the Support at Home Reforms.
SIRS in home services			✓	✓	✓	✓	✓	✓	The Serious Incident Response Scheme is already in place for residential care services and settings.
Restrictive Practices consent provisions	✓								Applies to residential aged care only.

Strengthening Provider governance

Applies from 1 December 2022 to approved providers of Residential Aged Care, Home care packages, Short-term Restorative Care in Residential Aged Care settings and the home, Multi-Purpose Services and Transition Care. The requirements do not apply to the Commonwealth Home Support Program or National Aboriginal and Torres Strait Islander Flexible Aged Care Program.

To assist approved providers to understand their obligations, we have published our guidance for providers. To view the legislation, go to Aged Care Legislation Amendment (Governance and Reporting for Approved Providers) Principles 2022. For more information, visit our Provider governance webpage.

Implementation and timeframes

1. Are there transition arrangements for Provider Governance requirements that come into effect in December 2022?	Yes - From **1 December 2022**, there will be new governance responsibilities for approved providers. EXISTING approved providers will be required to: • assess the suitability of their key personnel at least once a year • notify the Commission of changes that materially impact the provider's suitability, and any changes to key personnel, within **14 days** of the change • provide annual information on their operations to the Department of Health and Aged Care. Existing providers should also commence planning to meet their obligations commencing **1 December 2023:** • ensuring their governing body is made up of a majority of independent non-executive members that have the mix of skills and experience to deliver safe and high-quality care, and that at least one member has experience in providing clinical care • setting up and continuing a quality care advisory body • offering, at least annually, to set up one or more consumer advisory bodies

	• requiring the governing body to ensure that staff members have the appropriate qualifications, skills or experience to provide relevant care and services and are given opportunities to develop their capability to provide those services. There are also responsibilities that apply to certain providers and key personnel: • for certain providers that are a wholly-owned subsidiary of another body corporate that is not an approved provider – the provider must ensure that their constitution does not authorise a director of the provider to act in good faith in the best interests of the holding company • for key personnel of providers which are corporations – these key personnel must notify the provider if their circumstances change in relation to the 'suitability matters' under the legislation. PROVIDERS APPROVED AFTER 1 DECEMBER 2022 are required to meet all the new requirements from the **date they are approved**. For organisations that applied for approved provider status before 1 December 2022, and where a decision on the application is still pending, the new governing and advisory body responsibilities will not apply until **1 December 2023**. To assist approved providers to understand their obligations, we have published our guidance for providers For further information, visit the Commission's Provider governance web page and the Department of Health and Aged Care's reform page https://www.health.gov.au/health-topics/aged-care/aged-care-reforms-and-reviews/stronger-provider-governance-in-aged-care

2. What's the timing on setting up the various advisory boards/Board members in Home Care?	The timing is the same for all approved providers of residential and home care. For providers existing before 1 December 2022, the requirements commence on 1 December 2023. For providers approved on or after 1 December 2022, the requirements commence on approval.
3. Will this reform apply to CHSP providers when In-home Aged Care is implemented from July 2024?	The short answer is – that is not yet known. Any application of these new requirements to CHSP and NATSIFAC services will be considered as part of the Support at Home reforms.
4. Can you please clarify if this applies to Transition Care Program?	Yes, these requirements apply to the Transition Care Program.
5. Will there be a requirement to co-construct service delivery models and aged care facilities with consumers?	Consumers should be at the heart of the planning and design of any aged care service delivery. Under the Aged Care Quality Standards, providers are already expected to engage with their consumers in multiple ways – including seeking their involvement in decisions about the delivery of services and by encouraging feedback and complaints. The strengthening provider governance reform builds on this and requires providers to make an annual offer to their consumers to establish a consumer advisory body. The consumer advisory body will give feedback to the provider's governing body on the quality of care in the service. The governing body must take this feedback into account when making decisions about the quality of care provided. Further details about how a consumer advisory body might operate are available in our guidance for providers.
6. It is flagged in the amendment legislation that the Accountability Principles will be updated - this needs to	To view the legislation, which was registered on 30 November 2022, go to Aged Care Legislation Amendment (Governance and Reporting for Approved Providers) Principles 2022.

occur before 1/12/22. Do you have any information on when this is likely to happen?	To assist approved providers to understand their obligations, we have published our guidance for providers. For more information, visit our Provider governance webpage.

Board composition

7. Can the Board member with clinical experience be an unregistered practitioner or do they have to be registered with AHPRA? Regarding clinical expertise for governing bodies, is the expertise required in aged care or can it be in any clinical area? Can we have more information on Clinical Governance for In Home Care type services please. How does this relate? Do the key personnel require to still have AHPRA or clinical registration? How recent is recent care?	The legislation does not specify the particular clinical experience required by the Board member, or whether they must have professional registration. Experience in providing clinical care for older people would definitely be useful but is not mandatory. You will need to consider the particular clinical experience and qualifications that will best support the decision-making of your governing body in the context of the types of care and services that you provide. Where an individual has experience in the provision of clinical care but is not currently practising, you may wish to consider the currency and relevance of their experience (for example, the context in which they provided clinical care). For example, you may engage, depending on the types of care and services provided by your organisation, a retired Director of Nursing with experience overseeing an aged care or health care service. The member appointed with clinical experience must be able to contribute to discussions of the governing body and be capable of providing clinical expertise on key decisions and reports that impact care delivery to consumers. The requirement applies to providers of home care (and residential care) and they should follow this advice to assist in selecting an appropriate person to be part of their governing body.

8. How about Home Care businesses that are privately owned and do not have a board? Do they need to meet the new requirements relating to governing bodies?	The new governance requirements recognise that small approved providers may have small governing bodies that could make it more difficult to meet the new obligations. Organisations that have fewer than five governing body members AND deliver care to fewer than 40 consumers are exempt from this requirement. Approved providers that deliver care to fewer than 40 care recipients should still aim to ensure that there is independence and objectivity in executive decision making, and that their governing body has the relevant experience and expertise to be able to interpret reports about the delivery of care and see signs of potential problems with care delivery. Where providers are exempt from the requirement that at least one member has experience in the provision of clinical care, providers should ensure that they are able to seek clinical advice when needed – for example, external advice from a person experienced in providing clinical care.
9. Do we have a more precise definition of what exactly is independent for board members? In the context of church based not-for-profit organisations, will directors be "independent" if they are appointed by the church and/or have formal roles with the church? Does a Board Member need to be a registered Company Director? Can a previous employee become a non-executive Board member?	The legislation does not specify who qualifies as an independent non-executive member. Each organisation needs to consider the independence of proposed members and whether the person's interests, positions and relationships enable them to bring independent judgement on issues considered by the governing body. Factors that may be considered in assessing a person's independence include if the person: • has provided professional services to the organisation or has a material business relationship with the organisation (e.g. being a supplier, consultant or

Would a client representative board member be considered independent?	contractor for the organisation) which may impact their capacity to act independently • has relationships or preferences that may mean that they're influenced by other factors (e.g. having family receiving care by the organisation, or having shares in the company) • is able to act objectively and independently in the best interests of care recipients rather than in the interests of another party, including a faith-based organisation. For example, a substantial shareholder in the organisation or a person who has formerly been engaged in an executive role in the organisation is unlikely to have sufficient independence from the provider to provide objective insights. Providers are encouraged to consider engaging someone who is aware of the organisation and can contribute to the governance of the organisation, but who can also play a role in challenging and objectively analysing the organisation's position and holding management to account.
10. Do we require a clinical person on our management committee if we only provide Social Support? Being a specific Meals on Wheels Service, we have a clinical and Quality Care Sub Committee, however we do not deliver Clinical Services. Do we still need a clinical person on the subcommittee? If a provider doesn't deliver clinical care, why do they need to have a clinical care rep on their governing body? Do relatively simple home care service providers such	If you deliver social support services as an approved provider of home care, the requirement will apply. However, if you are a Commonwealth Home Support Programme provider, this requirement does not apply. (The requirement to have a member of a governing body with experience in the provision of clinical care applies to providers of home care, residential care, transition care and multi-purpose services.) While having a governing board member with clinical experience is a requirement, the nature of the clinical experience is not prescribed. This allows each governing body to appoint a member with experience most relevant to the nature of the provider's services.

as social support group need a person with clinical experience on the Board?	
11. Is there new legislation requiring a small stand-alone provider to have an independent Clinical Governance Committee?	The new legislation requires a governing body to have a quality care advisory body, rather than a Clinical Governance Committee, so the scope is wider than just the delivery of clinical care. The legislation does not provide any exemptions to small stand-alone providers for these requirements as they are important to support the delivery of good care.
12. How can Regional/Local Councils comply with these Board membership requirements? How do Counsellors fit into the new governance framework regarding having aged care experience and clinical knowledge? Do any of these requirements apply to Council in any way at all or are Councils exempt?	The requirements relating to governing bodies do not apply to organisations which are a State or Territory approved provider, including a State or Territory authority, or a local government authority. Such providers should ensure that there is independence and objectivity in executive decision making, and that their governing body (or equivalent) has the relevant experience and expertise to be able to interpret reports about the delivery of care and see signs of potential problems with care delivery. It would certainly be useful and relevant if one of the Counsellors had clinical experience. Governing bodies (or equivalent) may also seek external advice on relevant clinical issues, and/or seek feedback directly from care recipients.
13. Will the requirements for a consumer advisory committee apply to both residential and home care?	Yes, these requirements apply to all providers approved under the Aged Care Act, including providers of residential, home and/or flexible care.

14. Is this executive position needed for the Aboriginal Councils?	Aboriginal Community Controlled Health Organisations (ACCHOs) are exempt from the requirement to have at least one member of their governing body who has experience in providing clinical care. Also exempt are organisations with fewer than five governing body members AND that deliver care to fewer than 40 consumers. Other providers that do not automatically fit into one of these categories, may seek an exemption from the Aged Care Quality and Safety Commission. Instructions on how to do this will be made available on the Commission's website. When considering an exemption, the Commission can take into account matters such as: ○ the number of services the provider has ○ the number of care recipients ○ the location of the services ○ the membership of the governing body.
15. We are an outdoor home maintenance CHSP service provider (gardening). Will we need a clinical person on our board?	CHSP providers do not have to meet these governance requirements.

16. What are the expectations regarding qualifications held by board members, committees, chairs etc, in particular for private family RACFs business e.g. Governance Institute of Management - Board Governance credential or other??	The legislation does not specify qualifications or experience required for these positions (except for the requirement to have a member with experience of clinical care). However, providers should be able to demonstrate that your governing body has members with the experience and qualifications that will ensure effective governance and leadership of the organisation, including exercising oversight of the quality and safety of care, in the context of the types of care and services that you provide. This includes ensuring that there is independence and objectivity in executive decision making, and that the governing body, chair, committees, etc, have the relevant experience and expertise to be able to ask relevant questions and interpret reports and other information to make the best decisions to provide safe and high-quality care and services.
17. What emphasis do you put on the role of the clinician Registered Nurse in Governance?	One of the new requirements applying to governing bodies of most approved providers is for them to have at least one member who has experience in providing clinical care. This individual may have clinical qualifications in, for example, nursing, medicine or an allied health profession. This person will have an important contribution to make to the governing body's consideration of and decisions about clinical aspects of care. Registered Nurses employed by an aged care service to oversee and provide care also have an important part to play in clinical governance (which is an integral component of corporate governance). As a condition of their professional registration, a registered nurse has certain obligations in relation to ensuring the quality and safety of their care. Depending on their workplace responsibilities, these obligations may also extend to supervising other people's work. In effectively fulfilling these obligations, registered nurses are making a positive contribution to the clinical governance of care provided to individuals, and across the organisation.
18. What if you have a Board of more than 5 people but a client base of less than 40? Is the organisation still included?	The short answer is – in general, yes. The new requirement is that an approved provider's governing body is made up of a majority of independent non-executive members that have the mix of skills and experience to deliver safe and high-quality

	care, and that at least one member has experience in providing clinical care. The legislation provides an exemption from these membership requirements for organisations that both have a Board of fewer than 5 members AND provide care to less than 40 care recipients. Under this rule, the Board you describe would not be exemption from the requirements. However, providers may seek a determination from the Commission that either one or both of the governing body requirements do not apply.

Advisory bodies

19. Are board directors to be on the consumer advisory committee or is there a suggestion as to who should be on this advisory committee?	The membership and size of the consumer advisory body/bodies is not specified in the legislation. However, it is not anticipated that board directors would be members of the consumer advisory body, which is intended to be a committee for consumers and their representatives. Ideally, the body should comprise a majority of current consumers (or their authorised representatives), drawn from across the different types of aged care services your organisation provides. It should also be representative of the demographics and diversity of consumers in the organisation. For example, if your organisation has consumers from different cultural and linguistic backgrounds or consumers living with dementia, you should ensure that they are represented on the body. If your organisation is delivering aged care services as well as other social and health services, you may wish to have one consumer advisory body that provides feedback on the quality of all services delivered. The consumer advisory body need not be aged care specific or constituted by aged care consumers only.
	To answer this question, we have assumed that you are referring to what the legislation calls the “governing body” of the approved provider. The aged care legislation does not

20. What are the minimum qualifications/ experiences required for being a Chairperson of a provider's advisory board?	specify any minimum qualifications or experience for members of the governing body, including the Chairperson. Having noted that, it would be useful for the individual appointed as Chairperson to have leadership or management experience, to understand the organisation's purpose, and to have the skills to guide and manage board discussions, analysis of information, and decision-making to ensure that the organisation is well-managed and delivering safe, quality care to all consumers. The person selected as Chair should be free from conflicts of interest so that they will always act objectively and independently in the best interests of consumers.
21. Apart from being convicted of an indictable offence, being financially insolvent or under administration, or being of unsound mind, are there other criteria that may disqualify or exclude a person from being on the Advisory Board of an in-home care provider (e.g. familial relationship, employee of the provider, financial stakeholder of the business...)?	The requirements for key personnel, which includes governing persons, are legislated under the suitability requirement in the Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022. The aged care legislation does not detail or specify criteria for disqualification or exclusion. You will need to consider the particular experience and qualifications that will best support the Board in the context of the types of care and services that you provide. It is important Board members are able to fulfil their duties in the best interests of those receiving care and services, and this should be a key consideration in decisions about appointments to Boards.
22. We already have a Board subcommittee that reviews and has oversight of care governance, and membership is comprised of a care governance expert and a medical doctor. How does the new Quality Advisory body differ from our current arrangement?	A number of providers already have Board subcommittee arrangements in place to help ensure the delivery of quality care within their services. That's good! There is no expectation that providers need to replace these bodies. Rather, you need to ensure that the bodies meet the requirements of the legislation, including the Accountability Principles (Schedule 1 – Amendments in the legislation refers), and make any adjustments as needed. The new legislative requirements include that the quality care advisory body must:

	• meet at least once every 6 months and give the governing body a written report about the quality of the aged care provided through an aged care service • ensure written reports comply with the requirements in the Accountability Principles (requirements currently being drafted) • be able, at any time, to give feedback to the governing body about the quality of the aged care you provide through an aged care service. The quality care advisory body may request information from the approved provider about the quality of the aged care that you provide, and you must comply with any such request. For example, the quality care advisory body may request details of feedback and complaints by consumers, their representatives, staff and others about the quality of aged care delivered at the service, or any regulatory action taken by the Commission. The governing body must: • consider reports or any feedback from the quality care advisory body when making decisions in relation to the quality of aged care provided through an aged care service, and; • advise the quality care advisory body in writing how it considered reports or feedback in its decision-making.
23. Who should be included in the consumer advisory body?	The consumer advisory body should be composed of consumers and their representatives.

24. Can a Board member also be a member of a Quality Advisory Body (Committee)? What are the membership requirements for the Quality Care Advisory Body in line with the Accountability Principles?	The Accountability Principles include details about the membership of the Quality Advisory Body. To view the legislation, including details on the Accountability Principles, go to Aged Care Legislation Amendment (Governance and Reporting for Approved Providers) Principles 2022
25. Is it a consumer advisory body for each service or each provider?	The approved provider must offer, at least once every 12 months, care recipients and their representatives the opportunity to establish **one or more** consumer advisory bodies to give feedback to the governing body of the provider about the quality of its aged care services. For example, a large residential aged care provider operating multiple services may find that there is sufficient interest from consumers and their representatives to establish a consumer advisory body for each of its residential services or alternatively have one or more committees that represent a number of different services.
26. Will having a consumer representative as a member of our Quality and Risk Committee be sufficient to meet the Consumer Advisory Body requirements?	No, providers will be required to establish a quality advisory body (the membership requirements of which are detailed in the subordinate legislation when available), and to offer to establish a consumer advisory body or bodies for consumers and their representatives.

27. Would monthly consumer meetings with the executive/board to gauge opinions and obtain comments and complaints be a substitute for a consumer advisory body having a yearly meeting?	Providers are required to offer to establish a consumer advisory body at least annually. This does not mean that it would only meet annually, but that it would be offered at least annually to ensure that consumers continue to be aware of their right to establish such a body, even if at a point in time, they choose not to establish it. The legislation does not specify how regularly the consumer advisory body should meet, but providers must ensure that whatever arrangements are put in place enable the body to adequately perform its role.
28. Why is a client representative to be part of the quality advisory body when there is a client advisory body? Will it reduce the relationship these two could have? Will it be expected that experts openly discuss internal private confidential information with the client representative?	On the quality care advisory body, it is important to have a member who represents the interests of consumers, for example, a consumer or representative, a member of the consumer advisory body (if established), a member of an organised consumer advisory service, or a consumer advocate. This representative has an important role in providing a conduit between the consumers and the quality care advisory body. It is expected that providers consider: • how they will ensure the confidentiality of information that is shared with the quality care advisory body (where necessary) • whether certain information provided to the advisory body will need to be de-identified in order to protect the privacy and personal information of consumers and others. • arrangements to be put in place to ensure advisory body members agree to maintain confidentiality
29. If consumers are offered the opportunity to attend a Quality meeting would this qualify as consumer contribution and not have to form a consumer advisory board?	The legislation requires that providers establish and maintain a quality care advisory body AND offer to establish one or more consumer advisory bodies. The roles of these two bodies differ and it is not appropriate to combine the two. One or more consumer advisory bodies will provide feedback to the governing body about issues and areas for improvement specifically informed by the experience of that service's consumers. The quality care advisory body will likely consider and provide

	advice to the governing body on a broader range of issues impacting the safety and quality of care. It will offer an opportunity for a governing body to draw on further expertise and more in-depth analysis of certain matters in its decision making.
30. Where an organisation provides services to many thousands of consumers, do all consumers need to be offered the opportunity to be involved in a consumer advisory body?	It is expected that all consumers or their representatives will be offered the opportunity to be involved in a consumer advisory body. Where providers have a large number of consumers, they may consider options for having a number of bodies (e.g. one for each service) or developing different bodies for different issues.
31. Can staff facilitate the process if the consumers want assistance with running the CAB (e.g lifestyle team leader) or do they need to be completely independent.	Yes, staff can facilitate the process if consumers would like assistance running the consumer advisory body.
32. My understanding is there are three Advisory Bodies (at least), a Quality Adv Body, a Consumer Adv Body and a Clinical Care Adv Body. Is that right?	No, there are two key high-level provider responsibilities in relation to advisory bodies: • to establish, and continue in existence, a quality care advisory body • to offer to establish a consumer advisory body at least once every 12 months. Approved providers must ensure that the quality care advisory body includes specific representatives, including a member who is directly involved in the delivery of aged care (for example, the person responsible for the delivery of care and services, quality manager, care coordinator or a personal care worker) or where clinical care is delivered, includes a member directly involved in providing clinical care (for example, the person responsible for the nursing services, a registered nurse or allied health practitioner, etc).

Material changes

33. At the moment, to make a change of key personnel through the Material Change process is very difficult and time consuming. Collecting the information takes a long time. Communication with Commission is poor, e.g. getting information and feedback through doesn't happen quickly, which means that making a change takes months. The new legislation will add many more people to this process. How is the Commission going to ensure that this process is easy, as it is currently taking up a lot of time? Is there a portal or on-line form that allows the key personnel to register and upload their information and make changes to this information?	The Commission acknowledges that there has been a backlog in the processing of Notifications of Material Changes. Additional staff are being recruited and we are improving our processes to shorten the turnaround time. The Commission is also working with the Department of Health and Aged Care to build an online process to make it easier for Approved Providers to submit notifications of material changes, making the process more efficient for both providers and the Commission. This work has included a consultation process with Approved Providers led by the Department of Health and Aged Care. While it is understood that legislative changes will affect the volume and types of notifications, the Commission is working to ensure that the new online system is streamlined and easy to use.

34. Who is defined as "Key Personnel"	Key personnel play a critical role in supporting the organisation and the delivery of safe and quality care and services. Key personnel are people who: • are responsible for the executive decisions of the provider, or • have authority or responsibility for, or significant influence over, planning, directing, or controlling the activities of the provider • are responsible for the nursing services provided by the aged care service and hold a recognised qualification in nursing, or • are responsible for the day-to-day operations of the aged care service. These people likely include, but are not limited to, the Director of Nursing, Chief Executive Officer, Service Managers, each of the governing body members, Operations Manager, Clinical Coordinator and any other staff in management or leadership roles. It is expected that you will exercise due diligence in gathering information about the suitability of each of your key personnel to ensure the strength and suitability of your leadership team. "Key personnel" is defined under section 8B of the Aged Care Quality and Safety Commission Act as: (1) Each of the following is one of the key personnel of a person or body (the entity) at a particular time: (a) if the entity is not a State or Territory—a member of the group of persons who is responsible for the executive decisions of the entity at that time; (b) if the entity is not a State or Territory—any other person who has authority or responsibility for, or significant influence over, planning, directing or controlling the activities of the entity at that

	time; (c) if, at that time, the entity conducts an aged care service: (i) any person who is responsible for the nursing services provided by the service and who holds a recognised qualification in nursing; and (ii) any person who is responsible for the day-to-day operations of the service; whether or not the person is employed by the entity; (d) if, at that time, the entity proposes to conduct an aged care service: (i) any person who is likely to be responsible for the nursing services to be provided by the service and who holds a recognised qualification in nursing; and (ii) any person who is likely to be responsible for the day-to-day operations of the service; whether or not the person is employed by the entity (2) Without limiting paragraph (1)(a), a reference in that paragraph to a member of the group of persons who is responsible for the executive decisions of an entity includes: (a) if the entity is a body corporate that is incorporated, or taken to be incorporated, under the Corporations Act 2001—a director of the body corporate for the purposes of that Act; and (b) in any other case—a member of the entity's governing body

35. Regarding Material Change of Key Personnel – the notification period is currently 28 days. Has this now changed to annually? And how do we define 'key' Personnel - are Care Managers in this?	From 1 December 2022, providers are required to report material changes relating to themselves and their key personnel **within 14 days** of the change occurring. In addition, providers are required to assess the suitability of their key personnel **at least annually** against the suitability matters outlined in the legislation, keeping records of this assessment, including any information used in this assessment. Further details about this is available in our guidance for providers.
36. Will providers be required to include as key personnel on the material change form: Brokered Key players or agreements where Care management is being outsourced?	It is difficult to answer the question specifically without knowing the scope and role that these personnel play in the approved provider's business operations and care and service delivery. Approved Providers will need to form a view about whether personnel from brokered or subcontracted agencies meet the definition of key personnel. "Key personnel" is defined under section 8B of the Aged Care Quality and Safety Commission Act. See Q.52 for definitions. A key personnel can be an individual who is employed, contracted or is a volunteer. If such individuals: • are responsible for the executive decisions of the entity at that time • have authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the entity at that time • is responsible for the nursing services provided by the service • is responsible for the day to day operations of the service then they should be notified to the Commission. Approved providers can contact APNotifications@agedcarequality.gov.au if further advice is required.

37. Currently, when submitting a Notification of Material Change form, copies of police checks and bankruptcy/insolvency checks undertaken need to be submitted with the form. With the introduction of the annual assessments to be undertaken, will police checks etc still need to be submitted with the Material change form?	Yes – there will be a continued requirement to provide specified documents to the Commission with the Notification form. This includes a Nationally Coordinated Criminal History Check or NDIS worker screening clearance that should be current at the time the Notification Form is submitted. In addition, an insolvency check will also be required along with a copy of AHPRA registration if the key personnel is responsible for nursing services of the approved provider. The Commission may also seek further information upon receipt of a Notification form where necessary. This may include copies of the records held about an approved provider's consideration of key personnel suitability. The annual assessments require providers to keep records of this assessment, including any information used in this assessment. This assessment may trigger the requirement for a material change notification. It is also expected that before engaging key personnel, providers conduct a thorough assessment of their suitability. The Commission is working with the Department of Health and Aged Care to build an online process to make it easier for Approved Providers to submit notifications of material changes, making the process more efficient for both providers and the Commission. Further details about this is available in our guidance for providers.
38. How old can the police check be when submitting the required documentation to register someone as key personnel?	The *Accountability Principles 2014* require the following: **48 Requirements in relation to new staff members and volunteers** (2) This subsection applies to a person if:

	(a) subject to subsection 49(1), there is for the person a police certificate that is dated not more than 3 years before the day on which the person would first become a staff member or volunteer; and **50 Continuing responsibilities of approved providers** (1) An approved provider must ensure that for each person who is a staff member of the approved provider, or a volunteer for the approved provider, either: (a) there is a police certificate for the person that is not more than 3 years old and that does not record that the person has been: (i) convicted of murder or sexual assault; or (ii) convicted of, and sentenced to imprisonment for, any other form of assault; or (b) the person has an NDIS worker screening clearance that: (i) is not more than 5 years old; and (ii) is not suspended. In addition, the *Records Principles 2014* requires: **9 Records about staff members and volunteers—police certificates and NDIS worker screening clearances etc.** An approved provider must keep records that enable the provider to demonstrate that: (a) in accordance with Part 6 of the *Accountability Principles 2014*, there is for each person who is a staff member of the approved provider, or a volunteer for

	the approved provider, one of the following at all times during which the person remains a staff member or volunteer: (i) a police certificate that is not more than 3 years old; (ii) an NDIS worker screening clearance that is not more than 5 years old and is not suspended; and (b) for any period that a staff member or volunteer is allowed under Part 6 of the *Accountability Principles 2014* to be without such a police certificate or NDIS worker screening clearance: (i) an application for a police certificate has been made; or (ii) the staff member or volunteer is in the process of obtaining an NDIS worker screening clearance; and (c) any statutory declaration required to be made by a staff member or volunteer under Part 6 of the *Accountability Principles 2014* has in fact been made.
39. Are insolvency checks for all staff or only those who have financial responsibilities? Same with NDIS Banning orders - are these applicable to aged care staff or only when they may also provide services to a younger person with a disability?	The provider governance reforms prescribe new responsibilities for providers to ensure the suitability of **key personnel**. The suitability matters to be considered include whether the individual is or has at any time been an insolvent under administration. Referring more broadly to aged care workers, while insolvency checks for non-key personnel are not mandatory, the Commission encourages providers to exercise due diligence when recruiting staff to foster trust and confidence in the quality and delivery of aged care services to consumers.

	Regarding banning orders, if a NDIS banning order is in place the person subject to the banning order is likely to not be considered suitable to hold a key personnel role in an aged care provider.
40. Where do I find more information regarding Suitability of Key Personnel?	More information about the requirement is available in the guidance for providers.
41. We have had numerous changes at our executive level. How can we find out who is listed as our Key Personnel? How can we know who the Commission has recorded as Key Personnel for our organisation? Would the providers be able to easily see who are registered as key personnel? i.e under the My Aged Care portal.	It is expected that an approved provider creates and maintains its records about the commencement and cessation of its key personnel in order to verify that they are taking the steps set out under Part 7A of the Accountability Principles 2014. This can be achieved by having effective human resource policies and procedures in place to ensure that accurate records are kept regarding who its key personnel are. The Commission can, where requested, provide a list of key personnel for the approved provider to review. In such cases, approved providers can request a copy of the current list of key personnel held in their approved provider record. Note: a key personnel list can only be provided to an existing key personnel. If the person requesting the list is not known to the Commission as being key personnel, the request will be actioned with the list being emailed to a key personnel on that list. Enquiries about which key personnel are listed against an approved provider record can be sent to APNotifications@agedcarequality.gov.au.

42. In terms of notifying when someone becomes key personnel. Is this 14-day timeframe referring to days after the individual commences in the role?	The requirement is to report within 14 days of when the change occurs, so in this case, it would be 14 days from when the individual commences in the role.
43. Does the provider need to notify of a key personnel change if someone has taken leave such as long service leave and been backfilled by someone else? If so, what length of time is the threshold to determine when a notification needs to be made - that is, one week leave or 4 weeks leave?	Approved providers are not required to report changes of this nature. Providers may however consider reporting where key personnel are replaced for long periods such as 12 months' maternity leave.

Governing for Reform

Stay up to date with the latest information on the Governing for Reform program web page.

44. Is there an intention to expand the Governing for Reform education program beyond Executives and Board Members as this excludes lots of senior staff of providers who have operational responsibility for these areas from attendance who would otherwise benefit from the program too?	The Governing for Reform in Aged Care Program specifically targets governing board members and executives to enhance organisational and clinical governance capability across the sector. At the same time, we have noted the wider interest in accessing this content, and we are currently considering other education programs and resources that would likely be valued by providers and aged care staff in supporting your successful implementation of aged care reforms.
	As you note, while different Boards may have different levels of interest in the reforms and their new responsibilities, it's vital for all Boards to understand and

45. How are small organisations supposed to engage their Board members on the reforms and new responsibilities that I know is necessary for the quality and safety of our consumers?	comply with the new requirements. To help with this, the Commission is delivering an innovative and highly tailored learning program for aged care leaders – the Governing for Reform in Aged Care Program. The Program provides an opportunity for aged care leaders to be ahead of the aged care reforms, to implement best practice in aged care organisational and clinical governance, and to ensure the provision of safe and high-quality care to consumers. The Program provides participants with access to highly specialised learning materials and supports, including workshops, online learning modules and resources, podcasts, networking opportunities, coaching and webinars. We encourage all governing body members and aged care executive leaders to participate in the Program and be part of the collective drive to transform the aged care sector. **Enrolment in the Program is free** for all governing body members and aged care executive leaders of approved providers of residential and home care services. The Commission has a range of resources on its website to support providers on the reform journey. We encourage all providers to keep up to date by visiting our aged care reforms web page.
46. The Governance webinars and training you mentioned, is this for all Board or Governance committee members to undertake? Is this mandatory for them to complete?	The Governing for Reform Program is for all governing body members and aged care executive leaders of approved providers of residential and home care services. This program is not mandatory, but we encourage governing body members and aged care executive leaders to participate and be part of the collective drive to transform the aged care sector. Our webinars are also not mandatory, but we encourage all who are interested to view them.

47. Where do we enrol for the reform program and learning resources?	Enrolment in the Governing for Reform Program is free for all governing body members and aged care executive leaders of approved providers of residential and home care services. Learn more about the Program and how to enrol.
48. Can CHSP Boards/CEO register for Governing for Reform program?	Currently, the Governing for Reform Program is targeting members of governing bodies and executives of Commonwealth Government funded residential and home services approved providers of aged care. Therefore, CHSP Boards/CEOs are currently out of scope. However, the Commission acknowledges the broader interest in the contents of the Governing for Reform Program and is developing training material on the reform requirements for a wider audience which would include CHSP providers.
49. What is the time commitment for the course?	Program participants may take as long as they wish to complete the learning activities on offer. There are no time constraints and they can choose their own learning path through the activities. As an example, on-line learning modules and podcasts are typically approximately 30 minutes and webinars 60 minutes.
50. The Governance Training - how does this align with established board governance training such as AICD?	The program covers the basic elements of corporate and clinical governance. What distinguishes the program from other governance programs is that is contextualized for members of governing bodies and executives working in the aged care sector in the current reform environment.
51. I have searched for "Conversations to Transform Aged Care" on Apple podcasts but haven't been unable to find the podcast series - am I searching under the correct name?	The Governing for Reform in Aged Care program's podcast series, *Conversations to Transform Aged Care* is now publicly available to stream. This learning tool allows anyone with an interest in aged care reform leadership to listen, reflect,

	and digest insights from relevant subject matter and industry experts across a multitude of sectors. The series can be downloaded from: • Apple: https://podcasts.apple.com/us/podcast/governing-for-reform/id1652249233 • Google Podcasts: Governing for Reform (google.com) • Spotify: Governing for Reform | Podcast on Spotify
52. Should executive/ governing Board member take up this training for aged care reform. Will there be a separate training series for CHSP providers?	Yes, all members of governing bodies and executives of Commonwealth Government funded residential, and home care approved providers of aged care are eligible and encouraged to enrol in the Governing for Reform in Aged Care Program. The Commission is developing training material on the reform requirements for a wider audience which would include CHSP providers.

General queries

53. How do the new governance arrangements apply to local government providers?	There are certain parts of the aged care reforms that apply to local government providers and others that don't, as set out below. **Requirements applying to local government providers:** • Consider the suitability of your key personnel against suitability matters lists in the legislation at least every 12 months • Notify the Commission of any changes in key personnel within 14 days of the change

	• Notify the Commission of any material changes to the provider affecting your suitability to provide aged care within 14 days of the change • Report annually on the provider's operations **Requirements which do not apply to local government providers:** • Requirements regarding governing bodies • Requirements to have a quality care advisory body and offer to have a consumer advisory body • The requirement for key personnel to notify the provider of any changes regarding their suitability to be key personnel • Staff qualification requirements • Requirement regarding the constitutions of providers which are wholly owned subsidiaries of other bodies. While the governing and advisory body requirements do not apply, local government providers should ensure that there is independence and objectivity in executive decision making, and that its governing body has the relevant experience and expertise to be able to interpret reports about the delivery of care, and identify and act on signs of potential problems with care delivery. Governing bodies may seek external advice or seek feedback directly from care recipients.
54. Can you provide an overview of the annual report requirements please - are these covered in the new legislation?	These requirements are detailed in the legislation which is available at Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022

55. Are the Leadership responsibilities which are in the Royal Commission into Aged Care Quality and Safety's Final Report Recommendation 89 included in the legislation – i.e. qualifications and performance appraisals for Executive and Managers.	This recommendation related to the approvals process, which seeks to identify the suitability of an applicant. This requirement is included in the Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022. Applicants are required to provide details about their key personnel including their education/qualifications and experience. The Royal Commission Response Act requires the Commissioner to consider, among other things, the experience of an applicant in the delivery of aged care or other forms of care. This matter may also be considered in relation to the applicant's key personnel. The Act also extends this consideration to the ongoing suitability of an approved provider. Accordingly, an approved provider should ensure that its key personnel have the necessary skills, experience and qualifications for the role they are required to perform.
56. Should all providers have a board? Are they different to key personnel? What about where there are no Boards?	The requirements to have a board and key personnel of your organisation are different. All providers should have a governing body that oversees and directs the organisation and is accountable for its performance and legal obligations. The governing body of an approved provider is defined in Schedule 1 of the Aged Care Act to mean: if the provider is a body corporate incorporated, or taken to be incorporated, under the Corporations Act 2001—the board of directors of the provider, or otherwise—the group of persons responsible for the executive decisions of the provider. If you are an Other Incorporated Entity (registered under state or territory law) your governing body may have a different structure.

	The governing body of an aged care approved provider plays a key role in ensuring that consumers get safe and quality care and services. Members of the governing body are tasked with: • setting the direction and strategic priorities for the organisation • overseeing the financial management of the organisation • ensuring the efficient and effective operation of the organisation, as guided by the organisation's management team • leading and setting the culture of the organisation. Governing bodies include: • the board or equivalent committee (including chair, independent and representative directors) • group of persons responsible for the executive decisions within the organisation, including Chief Executive Officers and executive management team. Key personnel are people who: • are responsible for the executive decisions of the provider, or • have authority or responsibility for, or significant influence over, planning, directing, or controlling the activities of the provider, or • are responsible for the nursing services provided by the aged care service and hold a recognised qualification in nursing, or • are responsible for the day-to-day operations of the aged care service. These people likely include, for example, the Director of Nursing, Chief Executive Officer, Service Manager, each of the governing body members, Operations Manager, Clinical Coordinator and any other staff in management or leadership roles.

	Members of governing bodies will be key personnel. There may be other key personnel who are not members of the governing body.
57. What is the name of course discussed with the online learning Modules?	The name of the online learning program is Governing for Reform in Aged Care Program.
58. Does this mean that the Governing Body (with majority independent, non-executive members including someone with age specific clinical knowledge) has responsibility under the ACQSC rules/compliance rules with associated penalties for non-compliance AND the corporate legal and financial responsibilities for organisations? I am concerned that there will not be a large group of independent appropriately skilled people willing to take on these Independent Governing Body roles with essentially ALL the responsibility and liability required for ALL elements (quality / legal / financial).	Aged care providers have always been required to comply with a range of laws including work health and safety laws, corporations law, tax laws, and other state and Commonwealth laws relevant to their operations. The expectation continues to be that providers will fulfil these various responsibilities. You must ensure that new members of governing bodies are familiar with their broader duties (where applicable). For example, executive and non-executive directors of the governing body will be expected to apply their full experience and expertise to the role in order to discharge their duties, including under corporations law. These duties may include for example, acting with reasonable care and diligence, preventing insolvent trading and other statutory duties. Further information can be found in Part 2 of the sector guidance.
59. Do we wait for the " guidance" form for KPI details or can we create our own and send? Who do we address it to actually?	From 1 December 2022 approved providers must use this notification form to give the Commission notice of a material change and specified key personnel events. The form contains separate sections to enable an approved provider to comply with its pre and post 1 December 2022 responsibilities. Further information is available on our website.
60. Do you anticipate that Board members will work in a voluntary or paid capacity?	This would be a matter for each provider to determine, as there are no specifications or requirements in the legislation.

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