



Inspector-General of Aged Care

Consultation on an exposure draft of the Inspector-General of Aged Care Bill

December 2022

The Australian Government is seeking feedback on a draft Inspector-General of Aged Care Bill (the Bill) to establish a new independent statutory office - the Inspector-General of Aged Care (Inspector-General) – to provide oversight of, and to drive improvements in the aged care system.

Why an Inspector General of Aged Care?

The Royal Commission into Aged Care Quality and Safety (Royal Commission) recommended the establishment of an Inspector-General to improve transparency and accountability across the aged care system and address longstanding sector-wide problems, or 'systemic issues', in aged care. Issues, according to the Royal Commission, that include inadequate funding, variable provider behaviour, a lack of system leadership, and poor access to health care amongst people receiving aged care.

What is in the Bill?

The Bill will establish the new role of the Inspector-General and its supporting Office, and give the Inspector-General the authority and tools they will need to be effective. The Bill has several sections:

- 1. Objects and functions:** This describes the Inspector-General's role and the objectives of the Bill. It also identifies the Inspector-General's key functions, which will be to:
 - provide independent oversight of the aged care system
 - review systemic issues and recommend improvements
 - examine the performance of government/government-funded agencies in the sector
 - provide oversight of the complaints management framework (but not handle or investigate complaints directly)
 - publicly report on systemic issues, on how well the system meets the objectives of the aged care legislation, and on progress implementing aged care reforms.
- 2. Systemic oversight:** This section provides the framework for the Inspector-General's oversight role, which has 3 elements: reviews, reports and monitoring.

Reviews will be in-depth investigations of systemic issues or topics which affect the Australian Government's funding, regulation, administration, or delivery of aged care. The Bill establishes a three-phase process for conducting reviews, which aims to make the process clear and fair. An annual workplan will be published to identify review topics.

Reports will be split into 4 key categories:

- Review reports: with findings and recommendations
- Royal Commission reports: examining progress with reforms in response to the Aged Care Royal Commission, including a 5- and 10-year evaluation
- Ad hoc reports on the aged care system: covering key areas of interest, such as the performance of Commonwealth agencies and other entities with a role in the aged care system
- Corporate reports: such as an Annual Report and Corporate Plan.

The Bill does not prescribe all reporting requirements, but the general powers and information gathering provisions in the Bill will support the reporting function.

Monitoring involves investigating the state of the aged care system using data, intelligence and evidence. The Bill does not prescribe the approach to monitoring, but the general powers and information gathering provisions in the Bill will support the monitoring function.

1. **Information gathering powers:** Having access to information will be critical for the Inspector-General. It is likely that most information will be provided on request, however, there may be times when it has not or cannot be provided voluntarily.
2. As recommended by the Royal Commission, the Bill gives the Inspector-General information gathering powers. In certain circumstances, the Inspector-General will be able to require a person to answer questions and to provide information and/or documents. Additionally, the Inspector-General may access buildings in certain situations to carry out its functions.
3. **Protections for the Inspector-General and others:** The Bill allows the Inspector-General to offer a range of protections to people who provide information or assistance. As an example, these protections mean that a person who assists the Inspector-General will not be able to be criminally charged, sued or disciplined if compelled to give information. Protections are needed because the Inspector-General does not want people who share information to be penalised, or to be afraid that they could be.
4. **Criminal offences and civil penalties:** The Bill includes a series of offences and penalties, such as refusing to assist the Inspector-General, breaching confidentiality or victimising those who provide assistance. Wherever possible, the offence and penalty provisions in the Bill are consistent with other aged care legislation.
5. **Administrative provisions:** The Bill also includes a range of administrative provisions to support the appointment of the Inspector-General, their employment conditions and delegations. The Bill establishes the Inspector-General as a statutory office holder, appointed by the Governor-General of Australia for up to 5 years and eligible for reappointment for 2 full terms. It uses standardised provisions covering remuneration, leave, acting arrangements and termination.

Interested in providing feedback on the Bill?

The Australian Government is interested in your feedback on the Bill. To share your views, go to the Department's Aged Care Engagement Hub at <http://www.agedcareengagement.health.gov.au/InspectorGeneral> and submit your feedback by 5:00pm (AEDT), 27 January 2023.

Should you wish, you may want to address the following questions. These are included as a guide only, to support you to structure your feedback, if required.

CONSULTATION QUESTIONS

Do you support the proposed approach to: reviews, reports, and monitoring?

Do you support the proposed information gathering powers? Are any other powers necessary?

Are there other protections that should be included in the Bill?

Do you support the inclusion of penalties in the Bill? Are there other deterrents we should consider?

If you'd like more information, a more detailed consultation paper and the exposure draft of the Bill is available at <http://www.agedcareengagement.health.gov.au/InspectorGeneral>.