



Questions and answers: Mandatory care minutes webinar, 5 September 2023

Overview

The Department of Health and Aged Care (the department) holds regular webinars about residential aged care funding reforms, including the [Australian National Aged Care Classification](#) (AN-ACC) funding model, the [24/7 registered nurse \(RN\) responsibility](#), and [care minutes](#).

This document contains answers to some questions received prior to and during a webinar held on 5 September 2023 on mandatory care minutes. All questions from the webinar will inform ongoing updates to our care minutes resources.

Where appropriate, the department has simplified and consolidated similar questions to provide succinct responses.

For more information see the department's website:

- [Care minutes and 24/7 registered nurse responsibility guide](#)
- [Care minutes and 24/7 registered nurse responsibility resources](#)
- [Care minutes in aged care homes](#) (fact sheet for older persons, their families and carers)
- [Care time reporting assessments](#)
- [My Aged Care service and support portal](#)
- [Aged care workforce](#)

and the Aged Care Quality and Safety Commission's website:

- [A fair and sensible approach to regulating 24/7 RN and care minutes responsibilities](#)
- [Regulatory Bulletin 2023-19 Workforce-related responsibilities](#)

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1. General

When will mandatory care minutes be legislated?

The care minutes responsibility commenced on 1 October 2023 by amendments to the [Quality of Care Principles 2014](#) made through the [Aged Care Legislation Amendment \(Care Minutes Responsibilities\) Principles 2023](#).

Why is the government changing the care minute allocations?

The changes to care minutes allocations from 1 October 2023 better align the minutes associated with each AN-ACC classification with AN-ACC funding.

The changes ensure each AN-ACC classification's funding and care minutes are in appropriate proportions across the AN-ACC classes.

Having consistency between the ratio of funding to care minutes will ensure that:

- each service's average care minutes responsibility (or care cost) is correctly aligned with its overall care funding, better matching residents' needs with care time
- there are no incentives for providers to preference residents classified at a certain level of care need.

For more information, see the webinar [Residential aged care funding – Budget update](#).

Should we be lowering classifications of residents so that we meet care minutes?

Providers can (but are not obliged to) request an AN-ACC reclassification from the [My Aged Care Service and Support Portal](#), if a resident's care needs have reduced. AN-ACC reclassifications are independently undertaken by AN-ACC assessors based on a resident's individual care needs.

While a lower AN-ACC class generally has a lower care minutes allocation and therefore impacts a service's overall care minutes targets, it also means the provider will receive a lower level of AN-ACC funding to reflect the resident's reduced care needs.

Does the care minutes responsibility apply to Flexible Care and National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP) residential services who are not funded under the AN-ACC model?

The care minutes responsibility applies to [NATSIFACP](#) services.

The care minutes responsibility does not currently apply to [Multi-Purpose Services](#) (MPS) which provide flexible residential aged care services in small rural and remote hospitals.

The vast majority of MPS providers are state and territory governments. Implementation of these initiatives is subject to joint consideration by the Commonwealth and states and territories.

2. Care minutes targets and reporting

Why has the period for calculating the care minutes targets changed?

We have changed the period we use to calculate care minutes targets, along with the associated date the calculations are undertaken, to ensure targets can be calculated and known before the

start of the performance quarter. This means providers can plan their staffing before the performance quarter commences.

Can I request a review of the care minutes targets published by the department?

It is an approved provider responsibility to ensure the care minutes targets are met for a quarter, calculated in accordance with section 9 of the *Quality of Care Principles 2014*.

For information purposes only, the department calculates and publishes care minutes targets for each service. Where providers have concerns over the accuracy of the department's published care minutes targets for their services, they should contact rfrbdataandanalysis@health.gov.au.

Care minutes are too low - will they be increased?

In line with the Royal Commission's recommendation, from 1 October 2024 care minutes will increase to a sector average of 215 minutes per resident per day, including a minimum of 44 minutes of RN time per day.

In addition, the government will continue to refine care minute allocations associated with each AN-ACC class to ensure they reflect resident need.

Changes will be based on the latest [Independent Health and Aged Care Pricing Authority \(IHACPA\)](#) costing study on the relative care time and costs between different resident types.

What records do providers need to keep for care minutes?

Providers are required to hold documentation that confirms the accuracy of their care time reporting through the [Quarterly Financial Report \(QFR\)](#). Total care minutes must be reported in the residential care labour cost and hours section of the QFR.

The department is also establishing a [Care Time Reporting Assessments](#) program to ensure the accuracy of this reporting. Care Time Reporting Assessments will examine the accuracy of the care minutes and 24/7 registered nurse information included in the QFR and 24/7 registered nurse reporting.

These targeted and random assessments will examine documentation held by a service that confirms the accuracy of their reports. The department will give providers examples of the types of records it is likely to request. Examples of the types of records and documentation likely to be requested for care time assessments include, but are not limited to:

- enterprise agreements
- Australian Health Practitioner Regulation Agency (AHPRA) IDs
- position description
- staff rosters
- pay records (with tax file numbers redacted)
- resident occupancy records
- documents supporting day-to-day procedures and activities associated with care and lifestyle activities
- processes and controls to ensure accurate reporting.

The department will support providers with educational information if a reporting error is made in good faith, and if needed will update the published reported care minutes and Star Ratings for a service.

What if AN-ACC funding does not cover the cost of delivering my care minutes targets?

Some of the information the [Aged Care Quality and Safety Commission](#) (the Commission) looks at when they consider provider risk is the provider's financial situation. The Commission wants to identify emerging provider financial viability issues as early as possible. This is in recognition of the risks that a sudden financial shock or failure can pose for care delivery and access. In addition to that, the Commission wants to ensure that a provider can repay any Refundable Accommodation Deposits when due and is fulfilling their other corporate responsibilities, such as avoiding putting themselves at risk of trading while insolvent.

Where a provider is concerned about their financial situation, the Commission will look to engage with them - as a preventative regulatory strategy. Doing that when there are early signs of potential financial risk leads to better outcomes, as there are usually a far wider variety of strategies available that a provider can deploy; particularly around opportunities to improve their financial governance processes. For that reason, if you are a provider that is facing specific financial challenges, please reach out to the Commission.

The department also delivers a range of [financial viability and capability support](#) programs for eligible residential aged care providers, targeted at providers operating in thin markets experiencing financial viability challenges and are strategically important.

- The [Service Development Assistance Panel](#) offers free professional support to aged care service providers located in rural and remote areas (MMM 5 to 7) or who provide care to Aboriginal and Torres Strait Islander peoples nationally.
- The [Business Advisory Service and Workforce Advisory Service program](#) where providers can apply for free, independent and confidential advice to review their operations and gain advice on business management, financial strategies and workforce challenges. Applications for this program are expected to open later in 2023.

Do RN care minutes count towards the 24/7 RN responsibility?

An RN must be engaged in direct care activities for the time to count towards the RN component of the care minutes responsibility.

For the [24/7 RN responsibility](#), an RN is only required to be on-site and on duty at the residential facility for it to count towards the 24/7 RN responsibility, regardless of whether they are providing direct care to residents.

As such, an RN that is providing direct care can count towards the RN component of the care minutes responsibility as well as RN coverage for the 24/7 RN responsibility, as they are also on-site and on duty.

While RN staffing can contribute to both the care minutes and 24/7 RN responsibilities, compliance with the 24/7 RN responsibility does not remove obligations to comply with the RN component of the care minutes responsibility nor does it indicate that the targets are being delivered.

What are the financial and other consequences of not meeting the care minutes responsibility?

The provision of a required level of care minutes to residents at a residential care service is a legislated responsibility established by amendments to the [Quality of Care Principles 2014](#) made through the [Aged Care Legislation Amendment \(Care Minutes Responsibilities\) Principles 2023](#).

However, the government understands that in some circumstances workforce shortages may affect a provider's ability to maintain an adequate number of staff to meet its workforce-related responsibilities, including delivering the required amount of care minutes.

At this stage there are no direct financial consequences of not meeting the mandatory care minutes responsibility. For example, the department will not reduce the amount of basic subsidy delivered through the [Australian National Aged Care Classification](#) (AN-ACC) funding model.

However, for services that do not meet their care minutes one consequence will be publication of care minutes performance and a lower Staffing [Star Rating](#), which will show aged care residents and other interested members of the public the staffing levels in a particular service.

Separately, services that do not meet their care minutes responsibility will be considered by the Commission. The Commission will be looking to see that providers demonstrate a willingness to take reasonable steps to comply with their care minutes responsibility and that they are delivering safe care in determining their regulatory response.

3. Compliance

What are the compliance-related consequences of not meeting the care minutes responsibility?

The Commission's regulatory response to non-compliance with care minutes will be responsive to the circumstances of the provider.

Where a provider is not meeting its care minutes responsibility but demonstrates it is taking all reasonable steps to comply, the Commission is unlikely to take escalated compliance action.

Where a provider has not demonstrated a willingness to take all reasonable steps to comply with their care minute responsibility, the Commission's response will be proportionate to the issues identified and risks posed to residents.

This may include issuing:

- a **caution letter** to highlight the non-compliance and to remind the provider of their responsibility
- **directions** to a provider to take specified action to meet its responsibility or revise a plan for continuous improvement
- a **non-compliance notice** advising the provider of the non-compliance and setting out the actions required to remedy the non-compliance
- a **notice of requirement to agree to certain matters** (notice to agree) setting out the actions a provider is required to take to remedy the non-compliance.

Where there is significant and repeated non-compliance, and a provider's response is found to be insufficient and/or there are severe and immediate risks to residents, the Commission will take escalated action such as the imposition of sanctions. Sanctions can include restricting the payment of subsidies or suspending the approval of a provider to deliver aged care.

Compliance or enforcement actions may affect a provider's Compliance Star Rating, which will impact their overall [Star Rating](#).

As a last resort, the Commission may take action to revoke approved provider status. The Commission's compliance decisions and actions will be published on the Commission's [Non-compliance register](#) and/or [My Aged Care Non-Compliance Checker](#).

Where a service cannot meet its care minutes responsibility, how will the Aged Care Quality and Safety Commission determine an effort to comply?

The Commission is focused on ensuring the delivery of safe and quality care to residents at all times.

Where the clinical and personal care needs of residents are being adequately addressed, even when there are some gaps in care time, the Commission will take a fair and sensible approach to regulating the responsibility and consider providers' efforts to meet their care minutes and reporting responsibilities. For example, the Commission wants to see that providers are taking reasonable steps to recruit and retain their staff, and that they have arrangements in place to ensure their residents receive safe and quality care.

For more information, the Commission's regulatory approach is outlined in the [Regulatory Bulletin RB 2023-19 Workforce-related responsibilities](#) – including for care minutes and the 24/7 RN responsibility.

If a service cannot meet the care minutes responsibility without agency staff, and this compromises financial viability, what does the Commission expect?

The Commission expects that providers have strong governance systems in place to help manage the risks they might experience. It is important that providers regularly review their governance systems when new or emerging risks occur. This includes reviewing their Liquidity Management Strategy regularly to ensure it reflects the provider's current financial situation. Budgeting for, and maintaining, an appropriate minimum level of liquidity, enables providers to continue to meet their prudential obligations and ensures they are able to repay Refundable Accommodation Deposits when they become due. This is especially important in times when providers' financial circumstances are being impacted by risks associated with increasing costs.

Compliance with these obligations under the Prudential Standards is assessed by the Commission during Prudential Audits. If a provider needs assistance with understanding their prudential obligations, or is concerned about their ability to comply with the prudential standards, they can contact the Commission's Prudential Compliance Case Management team at prudential@agedcarequality.gov.au.

As of July 2023, the responsibility for financial viability monitoring of approved providers moved to the Commission from the department. If a provider is concerned about their financial viability, they can contact the Commission's Provider Engagement and Monitoring Section (PEAMS) team on peams@agedcarequality.gov.au.

The PEAMS team works with aged care providers to understand the risks and challenges they are facing. PEAMS work with providers to identify business improvement strategies to reduce their financial risks, including strengthening their budgeting and cashflow forecasting processes. PEAMS can also help connect providers with other support networks that might be available.

4. Workforce

Why are enrolled nurses not included in the RN component of the minutes responsibility?

Residential aged care providers are required under legislation to provide sufficient and appropriately skilled staff, with enrolled nurses (ENs) being a vital part of this staffing mix. Providers are funded

through the AN-ACC funding model to meet their care minute responsibility, including funding to provide EN care time.

While minimum care time was recommended for RNs, the Royal Commission did not recommend specific care time for ENs. Instead, care time delivered by ENs is included in a service's total care minutes to allow providers flexibility to select the appropriate skills mix for delivering high quality care.

The government is taking steps to highlight the importance of ENs in residential aged care including through the publication of the amount of EN minutes each service delivers alongside Staffing on [My Aged Care](#) from October 2023.

In addition, the [National Aged Care Mandatory Quality Indicator Program](#) requires that providers report on critical areas of care impacting the health and wellbeing of older people in residential aged care. The QI Program was expanded from 1 April 2023 to include a suite of new quality indicators. A workforce quality indicator reporting the percentage of staff turnover, including ENs, is included in recognition of the importance of staffing and continuity for the provision of high-quality care. QI Program data is available at [Australian Institute of Health and Welfare GEN Aged Care Data](#) at the national, state and territory level and by geographic remoteness categories.

Will allied health and lifestyle staff be included as part of the care minutes responsibility?

While the Royal Commission recommended care minutes targets for direct care from RNs, ENs and PCWs, they were not recommended for allied health care or lifestyle and recreational activities under the care minutes responsibility.

However, allied health professionals and lifestyle and recreational activities staff play an important role in ensuring safe and quality care for older people living in residential aged care. The work of a PCW or Assistant in Nursing (AIN) to personally assist a resident to take part in lifestyle activities can be counted in care minutes.

The AN-ACC funding model covers all care related costs, including the delivery of allied health care, lifestyle and recreational activities in line with the providers' requirements under Schedule 1 of the *Quality of Care Principles 2014* and under their obligations under the *Aged Care Act 1997*. This includes funding the Fair Work Commission 15% pay rise for lifestyle and recreational staff.

Providers are also required to report care time provided by allied health professionals in the QFR. This data gives the department and the Commission visibility on the use of allied health services.

From early 2024, information will be available on the [My Aged Care](#) website on each residential service's income, expenditure and profit/loss. This is expected to include expenditure information on allied health and lifestyle workers, as well as a comparison to median expenditure for the sector. This will support older people and their family members to compare allied health and lifestyle service provision between different aged care services.

The government is also expanding the [Quality Indicators Program](#) to include additional staffing quality indicators, with a particular focus on allied health professionals.

How can services recruit care staff?

We have a number of programs in place to build, train and support the aged care nursing workforce, including:

- **Aged Care Transition to Practice Program** to support and train registered and enrolled nurses in their first year working in aged care

- **Aged Care Nursing Clinical Placements Program** to play an important role in raising nursing students' awareness of the diverse and rewarding career opportunities in aged care
- **Aged Care Nursing and Allied Health Scholarships Program** to increase the skills of aged care nurses, personal care workers and allied health professionals
- **Aged Care Registered Nurses' Payment** to attract and retain registered nurses through reward payments for clinical skills and leadership.

The government also encourages the use of employer-sponsored visa programs by aged care providers to access direct care staff from overseas where there is evidence of genuine local labour shortages.

For more information, see [Aged care workforce](#).

Will I have to change staff rosters often to deliver my care minutes?

Service level care minute targets for each service are calculated on the 15th day prior to the commencement of the performance quarter and remain fixed for the quarter. To meet the care minutes responsibility, you must deliver care time equal to or greater than your care minutes targets multiplied by your 'occupied bed days' over the quarter.

Services should always aim to have a sufficient mix of staff rostered to meet their care minutes targets, as well as to meet their responsibility under the [Aged Care Act 1997](#) (the Act) to maintain an adequate number of appropriately skilled staff to ensure the care needs of residents are met and to provide safe, respectful and quality care and services (see obligations under the [Aged Care Quality Standards](#) (Quality Standards) in Schedule 2 to the [Quality of Care Principles 2014](#)).

I am a worker in residential aged care. How do I know my employer will follow the law with the mandate for the minutes?

Staff members (along with the public) will be able to see how the service they work in is going regarding the delivery of care minutes by viewing each service's [care minutes targets and reported care minutes](#), as well as through the services' Staffing [Star Ratings](#).

The department started a new [Care Time Reporting Assessments](#) program in September 2023. Reporting assessments will examine the accuracy of care minutes information included in the QFR. As part of this program, there will be a process established for staff, residents and carers/family members to report concerns over the accuracy of care time reporting, by emailing anaccreportingassessments@health.gov.au. This information will be one of a range of sources used to target these reporting assessments.

Staff, residents and carers with concerns about the level of care may [complain to the Commission](#). Complaints may be [lodged online](#), or by contacting the Commission directly on 1800 951 822. Complaints may be open, confidential, or anonymous. The Commission can also provide support with information and options.