



Government Response to the Report on the Independent Capability Review of the Aged Care Quality and Safety Commission

Foreword

A strong, capable and world-class aged care regulator is essential to ensure the aged care sector can uphold best-practice care for older people in Australia.

The Independent Capability Review of the Aged Care Quality and Safety Commission (the Commission) began on 4 October 2022 and concluded on 31 March 2023.

Independent reviewer Mr David Tune AO PSM, led the review.

The purpose of the Capability Review was to identify and provide best-practice recommendations. This would ensure the aged care regulator has the necessary legislative foundations, capabilities, resources, and support to meet its regulatory responsibilities, now and into the future.

The Capability Review final report outlines recommendations to strengthen the Commission's capability and support its regulation of the aged care sector. The report acknowledges the unprecedented challenges the Commission has faced since its inception and the commendable work it has done to establish itself and deliver on a growing range of regulatory roles and responsibilities.

The report includes 32 recommendations with key insights and advice to strengthen the national aged care regulator to:

- meet the challenges of the Australian aged care sector
- build on its capabilities as an end-to-end regulator.

The recommendations reflect important advice received from more than 50 targeted stakeholder consultations across the aged care sector, and over 60 submissions received through a public submission process.

I personally want to acknowledge Mr Tune's work; the final report is comprehensive and measured, and it provides a blueprint to further support our aged care reform agenda.

I published the final report in July 2023, recognising the sector's strong interest, while the Government carefully considered all recommendations. At that time, I also directed the Department of Health and Aged Care to action Recommendation 2.1 and establish a senior level Implementation Steering Group to advise Government on prioritisation and implementation.

The Government's response to the Capability Review accepts all recommendations.

Under the Implementation Steering Group's oversight, six recommendations have been completed and by the end of 2024, the majority of recommendations will be delivered. Delivery timeframes are aligned with the existing aged care reform agenda and the Government's budget cycle.

I am satisfied with the pace of the implementation of these important changes to the Commission. The Commission will continue to build its core capability in line with report recommendations and ensure best practice regulation is delivered.

The Government's ambition for aged care is a stable sector that delivers continuous, safe high-quality care. Calling to action the recommendations from the Independent Capability Review final report is crucial to the ongoing success of our reform journey.

Anika Wells

Minister for Aged Care

Recommendation	Government Response
<p>Recommendation 2.1: The Commission to form a senior level Steering Group to oversee implementation of an Action Plan based on the Capability Review recommendations.</p> <ul style="list-style-type: none"> • Membership of the Steering Group should include the Commissioner, the department’s Deputy Secretary of Ageing and Aged Care, a member of the Aged Care Quality and Safety Advisory Council, and the Inspector-General of Aged Care. • The Steering Group should be established by 1 July 2023. 	<p>The Government accepts this recommendation.</p> <p>The Minister established an Implementation Steering Group comprised of:</p> <ul style="list-style-type: none"> • Mr Michael Lye, Deputy Secretary of Ageing and Aged Care (Chair) • Ms Janet Anderson, Aged Care Quality and Safety Commissioner (Member) • Ms Maree McCabe, Chair, Aged Care Quality and Safety Advisory Council (Member) • Ms Anne Burgess, voice for the consumer (Member) • Mr Geoffrey Leeper, independent regulatory and assurance advisor (Member) • Mr Ian Yates, Acting Inspector-General of Aged Care (Observer). <p>This Group commenced meeting in September 2023.</p>

Recommendation	Government Response
<p>Recommendation 4.1: The Commission to review and update its purpose, role and responsibilities statements, and review and update its website and other communication products to provide greater clarity about its place in the broader aged care system.</p> <ul style="list-style-type: none"> The changes should be incorporated into the proposed new Communications and Engagement Strategy (see Section 4.11 and Recommendation 4.14). The changes should align with the introduction of the new Aged Care Act which will require extensive website and communication product updates, scheduled for 1 July 2024. 	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by June 2024.</p> <p>Relevant updates to communication material will be made following commencement of the new Aged Care Act.</p>
<p>Recommendation 4.2: The department and the Commission to establish a joint strategic policy and operational committee (Joint Strategic Committee) and update their overarching Memorandum of Understanding (MoU).</p> <ul style="list-style-type: none"> The Joint Strategic Committee should be established by 1 July 2023 and should meet at least quarterly. The MoU should be updated by 30 September 2023. 	<p>The Government accepts this recommendation.</p> <p>The department and the Commission jointly established the Joint Strategic Committee in September 2023.</p> <p>The MoU will be updated by June 2024.</p>
<p>Recommendation 4.3: The Commission to strengthen its leadership by fully implementing a new organisational structure to better support the Commission’s purpose and outcomes, including:</p> <ul style="list-style-type: none"> four Deputy Commissioners, at the SES Band 2 level, as well as the Chief Clinical Advisor, 	<p>The Government accepts this recommendation.</p> <p>In the 2024-25 Budget, the Government announced investment of \$4.1 million over 12 months in 2024-25 to implement a new organisational structure to support the</p>

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<ul style="list-style-type: none"> bringing similar functions together under each Deputy Commissioner, and having a Deputy Commissioner Corporate to rapidly lift the capability and capacity of the corporate enablers, and ELG to lead a renewed drive to implement the One Commission Strategy. <p>The new structure should be in place by no later than 30 September 2023.</p>	<p>Commission’s purpose and outcomes including two Deputy Commissioners (SES Band 2 level) in line with recommendation 4.3 and five Executive Directors (SES Band 1 level), in line with recommendation 4.8.</p> <p>This recommendation will be delivered by December 2024.</p> <p>Ongoing funding for these positions will be considered in line with Government’s endorsement of the Commission’s new funding model and cost recovery arrangements.</p>
<p>Recommendation 4.4: The Commission to implement a robust, comprehensive and transparent corporate governance framework and publish the framework on its intranet.</p> <ul style="list-style-type: none"> The corporate governance framework should be implemented by no later than 30 September 2023. 	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by September 2024.</p> <p>Relevant updates to the corporate governance framework will be made, if required, following commencement of the new Aged Care Act.</p>
<p>Recommendations 4.5: The Commission to adopt open disclosure as part of its regulatory practice and promote transparency about its practice within the sector and the community. The Commission should demonstrate this by:</p>	<p>The Government accepts this recommendation.</p>

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<ul style="list-style-type: none"> communicating with affected persons if something goes wrong, and using these occasions as a learning opportunity and receiving constructive criticism in good faith sharing information about its assessment and risk profiling methodologies to improve confidence in its decision making and regulatory activity building on regular sector performance reporting by analysing and sharing data and intelligence to drive better practice and support policy development, and publishing a wide range of data, case studies and learnings from its regulatory practice. 	<p>This recommendation will be delivered by June 2024.</p>
<p>Recommendation 4.6: The Commission to accelerate the development and implementation of its Diversity and Inclusion Strategy.</p> <p>As part of the Diversity and Inclusion Strategy, the Commission to immediately identify positions to be filled by First Nations people in all areas of the Commission which have contact with aged care consumers, their families, aged care providers and the public, so First Nations people can liaise directly with First Nations staff.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation was delivered in February 2024.</p>
<p>Recommendation 4.7: The Commission to develop a Cultural Capability Framework, in partnership with its Indigenous Staff Network, trusted First Nations Groups and the proposed Aboriginal and Torres Strait Islander Aged</p>	<p>The Government accepts this recommendation.</p>

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<p>Care Commissioner. The Framework should bolster the role of the Indigenous Staff Network and articulate the changes required to ensure:</p> <ul style="list-style-type: none"> the Commission’s systems, processes, practices, structure and culture are responsive to the cultural needs of First Nations people all staff are supported to develop the skills, knowledge and behaviours that are essential to provide culturally appropriate regulatory activity the work environment is culturally respectful and supportive for First Nations staff. <p>The Commission should review the Framework regularly, and report publicly on associated measures and initiatives.</p>	<p>This recommendation will be delivered by June 2024.</p>
<p>Recommendation 4.8: The Commission to develop a detailed, holistic and thorough Strategic Workforce Plan that identifies skills gaps and focusses on all aspects of the employee lifecycle, is a key priority of ELG, and is the principal focus of a new People and Culture Governance Committee. The Plan should:</p> <ul style="list-style-type: none"> encompass the aspects of the areas outlined above, including skills audits, cultural competency, recruitment and capacity, staff development and wellbeing, retention, and career progression and be supported by the Commission recruiting SES Band 1s with leadership and specific technical skills to new positions as Executive Director People, ICT, Data and Intelligence, Finance and Coordination and Intelligence. 	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by September 2024.</p> <p>This recommendation will be supported by the 2024-25 Budget announcement of investment of \$4.1 million over 12 months in 2024-25 to implement a new organisational structure to support the Commission’s purpose and outcomes including two Deputy Commissioners (SES Band 2), in line with recommendation 4.3 and five Executive</p>

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<p>The Plan should be implemented by no later than 30 September 2023.</p>	<p>Directors (SES Band 1) in line with recommendation 4.8.</p> <p>SES Band 1 positions will be delivered by December 2024.</p>
<p>Recommendation 4.9: The Commission to establish appropriately resourced ICT governance and delivery processes to provide greater strategy, design and implementation oversight over the aged care reform program and internal Commission ICT work program.</p> <p>Work should commence immediately and be completed by September 2023.</p>	<p>The Government accepts this recommendation.</p> <p>In December 2023, the Government announced investment of \$69.4 million over three years from 2023-24 for the Commission to commence establishing appropriately resourced ICT governance and delivery processes and accelerate its Cyber Security Uplift Program.</p> <p>Funding to complete the establishment of its ICT governance and delivery processes and Cyber Security Uplift Program will be considered in line with Government’s endorsement of the Commission’s new funding model.</p> <p>This recommendation will be delivered by:</p> <p>Phase 1: June 2024</p> <p>Phase 2: June 2026</p>

Recommendation	Government Response
	Phase 3: June 2028 (subject to Government's endorsement of the Commission's new funding model)
<p>Recommendation 4.10: The Commission to accelerate its Cyber Security Uplift Program to adequately address or mitigate current cyber security risks, including further education and awareness for staff.</p> <p>Work should commence immediately and be completed by 30 September 2023.</p>	<p>The Government accepts this recommendation.</p> <p>In MYEFO 2023, the Government announced investment of \$69.4 million over three years from 2023-24 for the Commission to commence establishing appropriately resourced ICT governance and delivery processes and accelerate its Cyber Security Uplift Program.</p> <p>This recommendation will be delivered by June 2024 (part of Phase 1 recommendation 4.9).</p>
<p>Recommendation 4.11: The Commission's 2022-23 resourcing levels to be maintained through 2023-24.</p>	<p>The Government accepts this recommendation.</p> <p>In 2023-24 Budget, Government announced investment of \$25.3 million for 12 months in 2023-24 to support implementation of the Preliminary report on the Capability Review of the Commission which recommended the</p>

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	<p>Commission’s 2022-23 resourcing levels be maintained.</p> <p>This measure included \$19.8 million for third-party providers for site audit activities, as well as \$4.2 million to assist the Commission with the regulation of new 24/7 nursing requirements.</p> <p>This recommendation was delivered in July 2023.</p>
<p>Recommendation 4.12: The department to urgently consider how the recommendations of this review, which have resourcing implications, will be funded.</p>	<p>The Government accepts this recommendation.</p> <p>All recommendations with fiscal and policy implications have been considered and advice provided to Government through the Implementation Steering Group.</p> <p>In addition to investment outlined in this response, Government announced in the 2024-25 Budget investment of \$10.2 million for 12 months in 2024-25 for additional corporate capability for the Commission to implement recommendations from the final report.</p> <p>Recommendations requiring further ongoing funding will be considered in line with</p>

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	<p>Government's endorsement of the Commission's new funding model and cost recovery arrangements.</p>
<p>Recommendation 4.13: The department, the Commission and the Department of Finance to undertake a joint project in 2023 to develop an appropriate and ongoing funding model. This could include, for limited appropriate functions, a funding mechanism for the Commission that sees its appropriation revenue directly determined by estimated workloads, against actual workloads, with adjustments through the year on a 'no-win, no-loss basis'. This could be similar to models that currently exist for resourcing elements of Services Australia's work.</p> <p>This work should commence immediately and be completed by September 2023.</p>	<p>The Government accepts this recommendation.</p> <p>In 2023-24 Budget, Government announced investment of \$25.3 million for 12 months in 2023-24 to support implementation of the Preliminary report on the Capability Review of the Commission.</p> <p>This measure included funding of \$1.3 million to support the department and the Commission to work with the Department of Finance to develop an ongoing funding model.</p> <p>Endorsement of the funding model will be considered by Government at a future Budget process.</p>
<p>Recommendation 4.14: The Commission to update its Regulatory Strategy in consultation with all relevant stakeholders so that aged care providers, consumers and other interested parties can effectively contribute to the continuous improvement of aged care regulation. The Commission to commit to regular review of the Regulatory Strategy.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by July 2024.</p>

Recommendation	Government Response
	Relevant updates to the Regulatory Strategy will be made following commencement of the new Aged Care Act.
<p>Recommendation 4.15: The Commission to use a wider range of opportunities to actively communicate and promote its updated Regulatory Strategy, with a focus on ensuring aged care consumers, providers and the wider community have a better understanding of the Commission’s regulatory practice and role in the aged care system.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by July 2024.</p>
<p>Recommendation 4.16: The Commission to, in partnership with the department, develop a strategic Data, Analytics and Risk Profiling Strategy. This will be supported by the advice of a member of the Aged Care Quality and Safety Advisory Council with a data background, and with oversight by the proposed Data and Intelligence Governance Committee. The Governance Committee to consider:</p> <ul style="list-style-type: none"> • strategic alignment of data and risk profiling initiatives to the updated role and functions of the Commission • a data analysis and risk profiling staffing strategy informed by consultations with staff, industry and academia and adopts innovative approaches to uplifting capability that are be evaluated over time on a ‘try, test, learn’ basis • methods for increasing trust of the community and the sector and increasing transparency in the system – e.g. publishing analytical 	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by June 2024.</p>

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<p>papers for public release and promotion, drawing from a wide range of data (note alignment with Recommendation 4.5), and</p> <ul style="list-style-type: none"> releasing profiling methodology to providers so that the sector has a good awareness and understanding of how risk is identified (note alignment with Recommendation 4.5). <p>Progress on the delivery of the Data, Analytics and Risk Profiling Strategy should be regularly reported to ELG and the Advisory Council.</p>	
<p>Recommendation 4.17: The Commission to develop a new, comprehensive communications and engagement strategy, including an external review of its current arrangements, and improved mechanisms and processes for communication and engagement with consumers from diverse backgrounds.</p> <p>The external review should consider its current strategy, processes and products for communication and engagement with aged care consumers, their families and carers, providers, peak bodies, and the broader community.</p> <p>Improved mechanisms and processes are required for communication and engagement with consumers with high care needs and consumers from diverse backgrounds e.g. First Nations people, culturally and linguistically diverse (CALD), and those living in rural and remote communities, and embed co-design principles and practice in their development.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by July 2024.</p>
<p>Recommendation 5.1: The Commission to actively work towards having a significantly higher proportion of accreditation site audits undertaken by its permanent quality assessor workforce. To be done gradually as deeds of offer with Third Party Provider suppliers are reviewed.</p>	<p>The Government accepts this recommendation.</p>

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	The work to implement this recommendation will be ongoing.
<p>Recommendation 5.2: The Commission to implement the Quality Assurance Framework across all its regulatory functions by June 2023 if possible and by no later than 30 September 2023. To ensure regular reporting of assurance activities and key findings on the Commission’s website to provide greater assurance to providers and consumers.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by September 2024.</p>
<p>Recommendation 5.3: The Commission to review the Quality Assessor Retention Project and urgently implement measures to retain assessment staff and extend the project to consider and address retention issues in other parts of the Commission’s workforce.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by June 2024.</p>
<p>Recommendation 5.4: The Commission and the department to develop a new approach to the use of Exceptional Circumstances (EC) decisions and accreditation visits during crises. To work together to substantially reduce the number of services covered by EC decisions by December 2023. Progress to be reported to the Joint Strategic Committee (see Recommendation 4.2).</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation was delivered in December 2023.</p>
<p>Recommendation 5.5: The Commission to embed in policy the right to seek a review of decisions preceding a formal compliance decision to strengthen procedural fairness and actively promote this by improving the transparency and communication of decision review arrangements. Reviews must be undertaken by separate reviewers (Authorised Review Officers).</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by June 2024.</p>

Recommendation	Government Response
	<p>Relevant updates to decision review arrangements will be made following commencement of the new Aged Care Act.</p>
<p>Recommendation 5.6: The department to consider expanding the range of reviewable decisions under the new Aged Care Act.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation was delivered in December 2023.</p>
<p>Recommendation 5.7: The Aged Care Complaints Commissioner to deliver an enhanced complaints management system which:</p> <ul style="list-style-type: none"> • ensures timely responses to complainants that explain the status of their complaint • is transparent and accountable, with more detailed, published information on complaints and notifications, including at the provider and sector level • integrates information from contacts, complaints, and notifications with other regulatory areas in the Commission, and • promotes open disclosure and supports the sector to use complaints to inform continuous improvement. <p>Priority is to be given to enhancements which can be made without amendment to primary legislation, with any requested changes to primary legislation to be referred to the department for consideration at part of the new Aged Care Act.</p>	<p>The Government accepts this recommendation.</p> <p>In the 2024-25 Budget the Government announced investment of \$7.1 million over 12 months from 2024-25 to support the continuation of the Aged Care Complaints Commissioner and associated complaints staff.</p> <p>Ongoing funding for these positions will be considered in line with Government's endorsement of the Commission's new funding model and cost recovery arrangements.</p> <p>Ahead of the new Aged Care Act commencement, enhancements have been made to the complaints management system.</p>

Recommendation	Government Response
	Other elements requiring legislative change will be sought through the new Aged Care Act.
<p>Recommendation 5.8: The Aged Care Complaints Commissioner to prioritise a thorough review of the revised operating model for the Serious Incident Response Scheme (SIRS) to determine whether it is effective in managing the high volume of notifications and identifying and addressing risks associated with serious incidents.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by June 2024.</p>
<p>Recommendation 5.9: The Commission to fully integrate its financial and prudential regulatory functions into existing assessment functions to support its implementation of a more sophisticated risk-based approach using data analytics.</p>	<p>The Government accepts this recommendation.</p> <p>In the 2023-24 Budget, Government announced investment of \$12.8 million for 12 months from 2023-24 to support implementation of the Aged Care Prudential Reform.</p> <p>This measure included \$9.8 million to expand the responsibilities and functions of the Commission to include prudential matters for Government funded aged care providers.</p> <p>In the 2024-25 Budget, Government announced a further investment of \$8.4 million for 12 months from 2024-25 for the Commission to continue this function.</p>

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	Ongoing funding, if required, will be considered in line with Government’s endorsement of the Commission’s new funding model and cost recovery arrangements.
<p>Recommendation 5.10: The Commission to pilot a Clinical Advice ‘hub and spokes’ model where some clinicians are embedded in regulatory areas to bolster clinical expertise and shape the advice provided.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation will be delivered by December 2024.</p>
<p>Recommendation 5.11: No new functions should be added to the Commission before the commencement of the new Aged Care Act.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation was delivered in December 2023.</p>
<p>Recommendation 6.1: The Commission to be retained in its current form.</p> <p>Note: linkage to recommendation 6.3</p>	<p>The Government accepts this recommendation, noting recommendation 6.3.</p>
<p>Recommendation 6.2: The Aged Care Quality and Safety Advisory Council to be strengthened to provide stronger independence, accountability and oversight, by the following actions:</p> <ul style="list-style-type: none"> • The Minister to immediately fill three Advisory Council vacancies as a matter of urgency. • The Minister to directly task the Advisory Council to provide advice on issues of concern on a more regular basis. 	<p>The Government accepts this recommendation.</p> <p>Additional Aged Care Quality and Safety Advisory Council appointments were made in April 2024.</p> <p>Ahead of the new Aged Care Act commencement, the Advisory Council</p>

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<ul style="list-style-type: none"> • The Advisory Council appointments process to be reviewed to align with any relevant outcomes of Review of Public Sector Appointment Processes due to report in mid-2023. • The Commission Act and other arrangements to be amended as required to: <ul style="list-style-type: none"> a. increase the number of Advisory Council members b. designate a Deputy Chair role to assist the Chair c. expand eligibility criteria for membership to include: <ul style="list-style-type: none"> ▪ contemporary regulatory best practice ▪ financial and prudential understanding, and ▪ data analytics. d. improve the diversity of the Advisory Council e. allow the Advisory Council to convene and review any matters under the Commission Act and report to the Minister, and specify the functions of: <ul style="list-style-type: none"> ▪ strategic oversight of the Commission, and ▪ the identification of systemic performance issues and reporting of these to the Minister. f. strengthen the independence of the Advisory Council. 	<p>independence has been strengthened with practical measures.</p> <p>Other elements requiring legislative change will be sought through the new Aged Care Act.</p>

Recommendation	Government Response
<p>Recommendation 6.3: The Inspector-General for Aged Care to undertake a review in 2025 to assess progress on implementing the recommendations of this Review, and to consider whether there is merit in abolishing the Commission and forming a new Authority and governing board.</p>	<p>The Government accepts this recommendation.</p> <p>This recommendation is subject to the discretion of the Inspector-General of Aged Care in line with the Inspector-General of Aged Care Act 2023.</p> <p>The Inspector-General will consider this recommendation when developing the Annual Work Plan for 2025-26 in consultation with the Minister for Aged Care.</p>



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