



Australian Government

Department of Health

Aged Care Rules – Release 3 Relating to Provider Obligations

Public Release – Supporting Document



Purpose

The purpose of this document is to further explain some of the topics contained in the Stage 3 release of the new Aged Care Rules (Rules). This release includes draft Rules that relate to some of the provider obligations under the *Aged Care Act 2024* (the new Act) as well as the Quality Standards. This document aims to assist stakeholders in providing feedback to the Department of Health and Aged Care (the department) on the Rules released as part of Stage 3.

It is not a comprehensive guide to the Rules, nor is it a standalone document. Please read it in conjunction with:

- the [new Act](#) and its [Explanatory Memorandum](#)
- the [draft Rules](#) released with Release 3.

Context

The department is publishing the Rules in stages, ahead of the new Act starting from 1 July 2025. The releases of the Rules have been prioritised so that new Rules and areas of strong interest are released earlier. This will provide the community and aged care sector more time to consider them and make sure we have them right. A [timeline](#) sets out each topic and its indicative release date for public feedback.

- The [Stage 1 release](#) contained the draft service list. This outlined the care and services that will be available to older people under the new laws. Submissions closed on 31 October 2024. A summary of the feedback is available on the [Ageing and Aged Care Engagement Hub](#).
- The [Stage 2a release](#) contained some of the draft Rules for Chapter 4 of the new Act. The release focused on funding related to the new Support at Home program, including subsidies, individual contributions and means testing for older people. Submissions closed on 6 December 2024. The department will release a summary of feedback once available.
- The [Stage 2b release](#) contained draft Rules related to funding for other aged care programs covered by Chapter 4 of the new Act. Stage 2a was re-released with Stage 2b to support stakeholders to view the Rules for Support at Home along with the other Chapter 4 Rules release as part of Stage 2b. Submissions close on 28 February 2025. The department will release a summary of feedback once available.

What is in the Stage 3 Rules release?

The Stage 3 release covers obligations of registered providers and conditions on registration of registered providers under Chapter 3 of the new Act.

This includes:

- existing provider obligations such as the Aged Care Code of Conduct, restrictive practices and strengthened Aged Care Quality Standards
- new requirements including rights and principles
- reporting and recordkeeping requirements.

Reading the Rules

The structure of the Rules (Chapters, Parts, Divisions, Subdivisions) does not follow the same structure as the new Act. However, each provision in the Rules must be authorised by a provision in the new Act.

For example, paragraph 166(a) of the new Act requires registered providers of a kind prescribed by the Rules to give the System Governor and/or the Commissioner information in accordance with any requirements prescribed by the Rules. Section 166-5 of the draft Rules provides “for the purposes of paragraph 166(a) of the Act [meaning the new Act], this section prescribes that a registered provider to whom this subdivision applies must give a report about the management of complaints and feedback to the System Governor and the Commissioner within 4 months after the end of every reporting period”.

Key topics

The key topics in Release 3 of the Rules are explained below. Please refer to *Appendix A* for the full list of Release 3 topics and a brief explanation.

Provider obligations

All providers seeking to deliver government funded aged care will need to apply to become a registered provider. Registered providers will have certain obligations and conditions of registration. These obligations can be found in Chapter 3 of the new Act. The Rules set out further details around how registered providers can comply with their obligations under the new Act.

The Rules relating to conditions of registration or providers' obligations set different requirements according to the kind of registered provider. Some Rules will apply to all registered providers, while some Rules will apply to certain registered providers as specified by the Rules. This is to ensure the regulation is proportionate to factors such as:

- the setting a provider operates in
- the services they deliver
- any risks of harm that may be present.

Examples of different kinds of registered providers include:

- providers that have previously been registered
- providers in a provider registration category or who deliver a particular service type within a registration category
- providers who are government entities or non-government entities.

Where all registered providers need to meet a condition or obligation, the Rules will apply to all kinds of registered providers. The Rules may also specify that the condition or obligation only applies to some providers. One common way of doing this will be that the Rules will specify that the condition or obligation will only apply to providers in certain registration

categories. However, the Rules may also specify kinds (or cohorts) of providers other than by registration category (for example, providers who are government entities). This allows the conditions and obligations to be proportionate to factors such as the setting a provider operates in, the services they deliver and any risks of harm that may be present.

Strengthened Quality Standards

The strengthened Quality Standards are included in the Rules and prescribe standards relating to the quality of funded aged care services delivered by a registered provider.

The strengthened Quality Standards apply to registered providers based on the service types they provide under their registration category as per the table below:

Standards 1 to 4 (the person, organisation, care and services and environment)	Applies to providers registered into the 'personal and care support in the home or community' registration category (category 4). <ul style="list-style-type: none"> Outcome 5.1 (clinical governance) also applies to providers registered in registration category 4 who deliver care management and restorative care management service types.
Standards 1 to 5 (the person, organisation, care and services, environment and clinical care)	Applies to providers registered in the 'nursing and transition care' registration (category 5)
Standards 1 to 7 (the person, organisation, care and services, environment and clinical care, food and nutrition and the residential community)	Applies to residential aged care (category 6).

The final draft of the strengthened Quality Standards was published in December 2023. As part of the legislative drafting process to translate them into law under the new Act, there are some small changes to this published version to ensure consistency with language in the new Act. Changes also include adjustments to reflect a stronger emphasis on the role of workers in delivering safe and quality care and services for older people in response to feedback received at the Senate Standing Committee on Community Affairs' Inquiry into the Aged Care Bill 2024 in October 2024. Importantly, the intent and expectations of the strengthened Quality Standards have not changed.

See *Appendix B* for some of the changes between the Rules and the published version of the strengthened Quality Standards (December 2023).

An updated consultation draft of the strengthened Quality Standards will be published on the [department's website](#) to support consultation on these Rules.

Further information on provider registration categories and the applicable Quality Standards and other obligations can be found on the [department's website](#).

How do the strengthened Quality Standards interact with other provider obligations?

Under the new Act, the strengthened Quality Standards is one of the conditions of registration that a registered provider may need to comply with. As set out earlier in this paper, conditions of registration can apply to all providers or be applicable to a certain 'kind' of provider.

One of the key differences for the Quality Standards compared with other conditions of registration and obligations is that registration (including renewal and variation) decisions will be informed by an audit against the applicable Quality Standards based on the services a provider offers. This is outlined in section 110 of the new Act. However, a provider's performance, including compliance with conditions and obligations, can also be considered in registration requirements (as outlined in section 109).

To ensure that providers are appropriately regulated, there are some conditions that apply to providers in registration categories where the Quality Standards do not apply. That is, for registration categories 1, 2 and 3 a condition may only apply to reflect the same requirement that is included in the Quality Standards, which applies to the other registration categories.

Some conditions of registration complement the requirements of the Quality Standards. For example, the condition of registration on complaints, feedback and whistleblowers applies to all registered providers, and prescribes further details than what is in the Quality Standards. A provider should reflect both requirements in a single complaints and feedback procedure to meet conditions of registration.

Commonwealth Home Support Program (CHSP) and National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP)

CHSP and NATSIFACP providers will need to be registered providers under the new Act. This means that NATSIFACP and CHSP providers will need to comply with any conditions of registration and obligations that apply to them. This is in addition to any other terms and conditions that are set out in their grant agreement. For example, the Aged Care Code of Conduct is a condition of registration that will apply to all providers under the new Act, including providers delivering CHSP and NATSIFACP.

Currently the obligations for CHSP and NATSIFACP providers are set out in individual agreements between the department and the provider and explained in the program manuals. Under the new Act, these requirements will be set out in the Rules as well as continue to be reflected in the program manuals.

Workforce and aged care worker requirements (aged care worker screening)

Section 152 of the new Act provides that it is a condition of registration that a registered provider of a kind prescribed by the Rules must comply with a number of requirements relating to the screening, qualifications, training and capability development of their aged care workers.

The Australian Government is working closely with the states and territories to expand National Disability Insurance Scheme (NDIS) worker screening checks to the aged care sector in the future. This will provide a more rigorous criminal screening check and additional information to assess if someone poses a risk of harm in working, or seeking to work, in aged care. Alignment across the NDIS and aged care sectors will make it easier for workers to move between the sectors. Before this change can happen, an intergovernmental agreement must be finalised between the Australian Government and the states and territories. New state and territory legislation is also needed.

Until this occurs, registered providers will have a requirement to ensure their aged care workers and responsible persons have either:

- a police certificate or
- an NDIS worker screening clearance.

The registered provider must check a person's police certificate for certain convictions that would preclude a person from working in aged care.

NATSIFACP and CHSP providers are currently required to comply with the current requirements under the provider manuals. The obligation is on providers to check a person's police certificate for these precluding offences.

For consistency across grant funded Aged Care Programs, from 1 July 2025 until the NDIS worker screening checks commence (expected to be during 2026), both CHSP and NATSIFACP providers will be required to ensure that their staff do not have a police certificate that records convictions or offences involving:

- the death of a person
- sexual offences including sexual assault (whether against an adult or child), child pornography, or an indecent act involving a child; where there was a conviction in the last five years and a sentence of imprisonment for one year or longer, or
- matters relating to dishonesty that are not minor, where there was a conviction in the last five years and a sentence of imprisonment for one year or longer.

CHSP and NATSIFACP providers must also not allow a person to continue to provide aged care services if they are convicted of one of these offences.

For CHSP providers, this is a change to current requirements where providers may use discretion when assessing a person's criminal history to determine whether recorded offences are relevant to the job.

For NATSIFACP providers, this is a change to current requirements because it does not include the reference to offences such as fraud, money laundering, insider dealing or any other financial offence/crime including those relating to companies, banking insurance or other financial services. This has been amended because the fraud-related offences were directed to the executive decision makers and those roles are now responsible persons who are regulated under enhanced suitability matter requirements in the new Act.

Consultation on a national registration scheme for aged care workers, with new training and skills requirements, will occur separately to this consultation on the Rules.

Appendix A: Release 3 Topics

Rules that exist now in aged care

Aged Care Code of Conduct (section 14) Maintains the current Aged Care Code of Conduct, which sets out expectations for aged care workers and responsible person for how they behave and treat people receiving aged care.
Continuous improvement (section 147) The Rules provide which registered providers must comply with the requirement to have a continuous improvement plan.
Incident management (section 164) The Rules provide further details as to the requirements of registered providers' incident management systems that they must implement and maintain, as well as how incidents must be managed and prevented.
Restrictive practices (section 162) The Rules set out conditions for providers around the use of restrictive practices in relation to an individual to whom the provider is delivering funded aged care services.
Reporting and recordkeeping requirements - SIRS (section 154 and 166) The Rules prescribe the way in which registered providers must report on and keep records in relation to serious incidents, including details for reporting incidents to the Aged Care Quality and Safety Commission.

Rules that mostly exist now in aged care

Advisory body requirements (section 158) The Rules set out the membership, terms and conditions, and reporting requirements for advisory bodies. Following the implementation of provider registration categories, the Rules now clarify which registered providers must comply with these requirements.
Aged Care Quality Standards (section 15) Establishes the strengthened Aged Care Quality Standards.
Compliance with Aged Care Quality Standards (section 146) The Rules provide that providers registered in registration categories 4 to 6 (inclusive) are required to comply with some or all the strengthened Aged Care Quality Standards.
Membership of governing bodies (section 157) The Rules set out which providers have to comply with the membership requirements for governing bodies and exempt some types of providers from some or all of these

requirements (such as cooperatives and Aboriginal and Torres Strait Islander Community Controlled Organisations, etc.). Following the implementation of provider registration categories, the Rules now clarify which registered providers must comply with these requirements.

Reporting and Recordkeeping requirements - Provider Complaints Reporting (section 154 and 166)

Prescribes that registered providers must report on and keep records in relation to complaints and feedback received by a registered provider i.e. number of complaints and feedback, action taken and subsequent evaluation of the effectiveness of the action taken.

Reporting and Recordkeeping requirements - Provider Governance and Operations Reporting (section 154 and 166)

The Rules set out the information to be reported by providers to the department as part of the provider operations reporting requirements, including providing a governing body statement on compliance, as well as reporting on: governing body membership; diversity and inclusion; common kinds of feedback and complaints received; and key improvements made to service quality. Following the implementation of provider registration categories, the Rules now clarify which registered providers must comply with these requirements.

Reporting and Recordkeeping requirements - Vaccination Reporting Requirements (section 154 and 166)

Sets out vaccination reporting requirements for registered providers registered to deliver residential care (category 6), including MPS and NATSIFAC providers delivering residential care to older people and their aged care workers as well as related record keeping requirements for aged care workers and older people in the new aged care system.

Vaccination (section 153)

Prescribes that registered providers registered to deliver residential care (category 6) must ensure access to influenza and COVID-19 vaccinations for aged care service staff and people receiving residential aged care in line with appropriate clinical recommendations as outlined in the Australian Immunisation Handbook (AIH).

Rules that partially exist now in aged care

Access by supporters and independent aged care advocates etc. (section 156)

Sets out further details regarding the condition of registration for registered providers to facilitate access for supporters, legal representatives and both an aged care volunteer visitor or an aged care independent advocate.

Complaints, feedback and whistleblowers (section 165)

Sets out as a condition of registration that registered providers must have an internal complaints and feedback management system, an internal whistleblower policy as well as requirements regarding managing disclosures that qualify for protection.
Delivery of Direct Care (section 176) Sets out as a condition of registration that registered providers in category 6 must meet in relation to care minutes.
Reporting and recordkeeping requirements - CHSP and NATSIFACP Reporting (section 154 and 166) Sets out relevant reporting and record keeping requirements for CHSP and NATSIFACP providers, such as financial reporting, performance reporting, annual wellness and reablement reporting and service activity reporting.
Reporting and recordkeeping requirements - Prudential and financial (section 154 and 166) Sets out relevant reporting and record keeping requirements in relation to registered providers' Financial and Prudential obligations i.e. Aged Care Financial Report & Quarterly Financial Reports.

Rules that will mostly be new to aged care

Rights and principles (section 144) The Rules will provide that all registered providers are required to comply with section 144, noting that the strengthened Aged Care Quality Standard 1 will apply to providers in registration categories 4 to 6.
Workforce and aged care worker requirements (section 152(a) and 152(b)) Sets out requirements on criminal history screening checks for aged care workers and responsible persons.

Appendix B: changes between the Rules and the published strengthened Quality Standards

Some of the changes between the Rules and the published version of the strengthened Quality Standards (December 2023) include:

- Changes to ensure the language used in the strengthened Quality Standards is **consistent with the new Act**, including:

Term used in the strengthened Quality Standards document	Term used in the new Act and Rules
Family and/or family and carers	Supporter/s
Older people/person	Individual/s
Care and services	Funded aged care services
Provider/s	Registered provider/s
Worker/s	Aged care worker/s

- Minor wording changes to **make requirements for providers clearer** in the Rules. For example:

Wording of the Outcomes in the strengthened Quality Standards document	Wording of the Outcomes in the new Act and Rules
Outcome 1.1 The provider understands that the safety, health, wellbeing and quality of life of older people is the primary consideration in the delivery of care and services.	The provider demonstrates that the provider understands that the safety, health, wellbeing and quality of life of individuals is the primary consideration in the delivery of funded aged care services.
Outcome 4.1a Providers support older people to mitigate environmental risks relevant to their care and services.	When delivering funded aged care services to individuals in their homes , the provider must supports the individuals to mitigate environmental risks relevant to the services.

- Removing duplication** by ensuring there are clear references between the strengthened Quality Standards Rules and other obligations and conditions of registration that apply to registered providers in the new Act (for example incident reporting, feedback and complaints).

- The **numbering** of the Outcomes in the Rules is different, so that each sentence in an Outcome statement is its own numbered provision in the Rules. For example:

Outcome statement in the strengthened Quality Standards document	Outcomes in the Aged Care Act and Rules
<p>Outcome 3.3</p> <p>Critical information relevant to the older person's care and services is communicated effectively with the older person, between workers and with family, carers and health professionals involved in the older person's care.</p> <p>Risks, changes and deterioration in an older person's condition are escalated and communicated as appropriate.</p>	<p>6) The provider must ensure that critical information relevant to the delivery of funded aged care services to individuals is communicated effectively:</p> <ul style="list-style-type: none"> (a) to the individuals; and (b) between aged care workers delivering the services; and (c) with supporters of the individuals and other persons supporting the individuals; and (d) with health professionals involved with the individual's care. <p>7) The provider must ensure that risks to individuals, and changes and deterioration in the condition of individuals, are escalated and communicated as appropriate.</p>

- A stronger emphasis on the **role of workers** in delivering safe and quality care and services for individuals in Standard 2 – The Organisation. This responds to feedback heard as part of the Senate Standing Committee on Community Affairs' Inquiry into the Aged Care Bill 2024 in October 2024 as below.
- These changes do not introduce new obligations for providers. Instead, it highlights the importance of the provider supporting aged care workers to deliver safe and quality care for individuals.
- Proposed changes to Standard 2 – The Organisation include:
 - Splitting Outcome 2.2 – Quality, Safety and Inclusion Culture, into 2 separate outcomes, one for aged care workers and the other for individuals.
 - Splitting Outcome 2.6 – Complaints and Feedback Management, into 2 separate outcomes, one for aged care workers and the other for individuals.
 - These changes are reflected in the table below.
 - Actions under Standard 2 have also been updated to give providers further examples of how it can support aged care workers to deliver safe and quality care for individuals. They do not introduce new obligations on providers.
 - This includes communicating the importance of worker safety, engagement with workers, feedback and complaints processes and workforce planning where this supports improved delivery of care and services.
 - Please note: the Actions are not included in the Rules, as they are examples of how the provider can demonstrate conformance with the legally enforceable Outcomes of the strengthened Quality Standards contained in the Rules.

Outcomes in the strengthened Quality Standards	Outcomes in the new Act and Rules
<p>Outcome 2.2 Quality and Safety Culture</p> <p>The governing body leads a culture of safety, inclusion and quality that focuses on continuous improvement, embraces diversity and prioritises the safety, health and wellbeing of older people and the workforce.</p>	<p>Outcome 2.2a Quality, safety and inclusion culture to support workers to deliver quality care</p> <p>The governing body must lead a culture of quality, safety and inclusion that supports aged care workers to provide quality funded aged care services by:</p> <ul style="list-style-type: none"> (a) focussing on continuous improvement; and (b) embracing diversity; and (c) prioritising the safety, health and wellbeing of aged care workers. <p>Outcome 2.2b Quality, safety and inclusion culture to support individuals</p> <p>The governing body must lead a culture of quality, safety and inclusion that supports individuals receiving quality funded aged care services by:</p> <ul style="list-style-type: none"> a) focussing on continuous improvement; and b) embracing diversity; and c) prioritising the safety, health and wellbeing of individuals.
<p>Outcome 2.6 Feedback and complaints management</p> <p>Older people, workers and others are encouraged and supported to provide feedback and make complaints about care and services, without reprisal.</p> <p>Feedback and complaints are acknowledged, managed transparently and contribute to the continuous improvement of care and services.</p>	<p>Outcome 2.6a Complaints and feedback management - workers</p> <p>The provider must encourage and support aged care workers to make complaints and give feedback about the provider's delivery of funded aged care services without reprisal.</p> <p>The provider must acknowledge and transparently manage all complaints and feedback and uses complaints and feedback to contribute to the continuous improvement of funded aged care services.</p> <p>Outcome 2.6b Complaints and feedback management - individuals</p> <p>The provider must encourage and support individuals and others to make complaints and</p>

	<p>give feedback about the provider's delivery of funded aged care services without reprisal.</p> <p>The provider must acknowledge and transparently manage all complaints and feedback and uses complaints and feedback to contribute to the continuous improvement of funded aged care services.</p>
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The strengthened Quality Standards Rules also include the following provisions related to the Aged Care Act 2024:

- Clarify the application of provider **registration categories** to the strengthened Quality Standards under the Aged Care Act 2024
- Identify the need to include a requirement to **periodically review** of the strengthened Quality Standards **every 5 years** from their implementation, as recommended by the Royal Commission (Recommendation 20).