



# System Governor aged care compliance framework

Department of Health, Disability  
and Ageing





## Disclaimer

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It is the provider's responsibility to understand and meet their obligations as they relate to all applicable legislation when delivering funded aged care services.

Providers should consider obtaining their own legal or professional advice relevant to their circumstances, especially in relation to requirements and obligations for delivering funded aged care services that may be new or different under the *Aged Care Act 2024* and related rules.

Providers are responsible for complying with all relevant legislation when delivering funded aged care services. In addition to legislation referred to in this Guide, other Australian Government portfolios and state and territory jurisdictions may have separate legislation relevant to providers' operations as a registered provider.

# Acknowledgement of Country

We, the Department of Health, Disability and Ageing, proudly acknowledge the Traditional Owners and Custodians of Country throughout Australia, and pay respect to those who have preserved and continue to care for the lands and waters on which we live and, work, and from which we benefit each day. We recognise the strengths and knowledge Aboriginal and Torres Strait Islander peoples provide to the health, disability and aged care system and thank them for their ongoing contributions to those systems and the wider community. We extend this gratitude to all health, disability and aged care workers who contribute to improving health and wellbeing outcomes with, and for, First Nations peoples and communities.

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# Document maintenance

We will review this document and all related documents according to the schedule below.

Document	Minimum Frequency of Review	Responsibility
The System Governor aged care compliance framework	Annually	Quality and Assurance Division

The System Governor aged care compliance framework (framework) will be reviewed at least annually. Additional reviews of the framework could be triggered by:

- changes or updates to relevant legislation
- program setting changes that have an impact on the framework
- changes to the Department of Health, Disability and Ageing's (the department) structure
- any notable non-compliance events.

The framework is subject to a process of continuous improvement. The department will discuss with internal and external stakeholders as appropriate, to get feedback and identify opportunities for improvement.

NOTE: This version of this document is valid at the time it is downloaded. Please check the department's website ([health.gov.au](http://health.gov.au)) for the latest version.

# Section 1 – Introduction

The Royal Commission’s Final Report: Care Dignity and Respect identified system governance and stewardship as critical elements. It made several recommendations noting that better system governance is crucial to the reform of aged care.

The *Aged Care Act 2024* (the Act) places older people at the centre of the aged care system. The Act introduces the Statement of Rights which articulates the fundamental rights of older people receiving aged care.

The Act establishes the Secretary of the Department of Health, Disability and Ageing (the department) as the System Governor of the aged care system<sup>1</sup>. It enables the department to hold providers accountable, including for the proper use of Australian Government funding<sup>2</sup>.

The System Governor and the department need to promote public confidence and trust in the use of aged care funding and reliability of provider reporting. The department acknowledges that most providers use Australian Government funds for approved purposes. By using Australian Government funding effectively, providers can deliver more direct, person-centred care and services to older people. This supports their wellbeing and fulfills the Australian Government’s commitment to improving aged care outcomes.

## 1.1 Purpose

This framework articulates the department’s compliance approach to the System Governor’s compliance functions under the Act, and prevention, detection and response strategies. The intent of this approach is to support providers’ continuous improvement, ensure the sustainability of aged care and improve the wellbeing of older people in Australia. It outlines how the department will act where a provider has failed (or potentially failed) to comply or is unwilling or unable to meet its obligations.

The framework aims to achieve the following objectives for each of the following audiences:

- **Older people** – provide more direct care and services to older people by holding providers accountable for the proper use of Australian Government funding.
- **Australian community** – protect the public’s investment in aged care. It also provides context and acts as a guide to the community (including older people in

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<sup>1</sup> This is separate to the role the Aged Care Quality and Safety Commission (the Commission) plays as the national regulator.

<sup>2</sup> The Australian Government delivers services for older people through a range of funding mechanisms, including subsidies, grants and other program funding. Further details can be found on the [department’s website](#).

Australia and their families), to better understand how the department approaches compliance matters.

- **Aged care providers** – provide a clear approach to what providers can expect from the department as the System Governor to support compliance and manage non-compliance.
- **Stakeholders** – assist with the coordination and management of a consistent approach in managing compliance. Refer to section 3.1.3 for further information on stakeholders.
- **Staff of the department** <sup>3</sup>– establish a consistent approach to be applied to aged care providers and holds the department to account in applying the framework.

## 1.2 Scope

The framework is relevant to all registered aged care providers and covers compliance matters in the scope of the Secretary’s responsibilities as the System Governor. These responsibilities include:

- facilitating equitable access to funded aged care services
- supporting the continuity of funded aged care services
- system stewardship
- monitoring and encouraging the training and development of registered providers to build capacity and adopt better practices in delivering funded aged care services
- reviewing the Australian Government’s administration of the aged care system.

This framework supports the System Governor to protect and uphold the integrity of the Australian Government’s administration of, and investment in, the aged care system. For example, payment and data integrity risks such as governance, administration, accounting, and reporting requirements that need to be met by registered providers.

Compliance matters are managed by the System Governor and the Commission as outlined below and further in [Appendix A](#).

## 1.3 Roles and responsibilities

The department and the Commission play essential roles in addressing non-compliance with Australian Government aged care legislative requirements. A [memorandum of understanding](#) reinforces the strong partnership between the

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<sup>3</sup> Staff of the department include staff that are directly employed, contracted or any third parties consulting with the department.

department and the Commission to oversee the operations and integrity of the system.

The Secretary of the department as the System Governor is responsible for facilitating equitable access to funded aged care services, supporting service continuity, and providing stewardship of the Australian Government's administration of the aged care system.

All staff at the department have a role in managing compliance. This includes but is not limited to:

- Program areas responsible for identifying and managing risks by acting as the first line of defence against non-compliance. This includes implementing controls and other activities to mitigate non-compliance risk.
- Compliance functions and program assurance staff who perform assurance and compliance activities to help manage risk.
- Senior executive staff responsible for shaping and promoting the department's compliance culture, supporting achievement of compliance objectives, and providing oversight of the operation of the framework.

The Commission is responsible for protecting and enhancing the safety, health, wellbeing and quality of life of older people receiving aged care. In doing so, the Commission upholds older people's rights and ensures providers and workers comply with their obligations under the Act.

The Commission will actively monitor and respond to complaints or evidence of non-compliance and can use its regulatory powers to require providers to adjust their behaviour, issue notices of non-compliance, or, where necessary, issue infringement notices.

The Commission undertakes its functions by:

- engaging with older people, families, registered supporters and carers to ensure their voices and experiences inform regulation and to promote rights and transparency in the aged care system
- registering providers to deliver funded aged care services and ensuring they have the capability and commitment to meet their obligations
- monitoring compliance with obligations under the Act, including the Aged Care Code of Conduct, the Aged Care Quality Standards, and the Financial and Prudential Standards
- taking proportionate regulatory action where providers, responsible persons or workers fail to meet their obligations, including responding to non-compliance and serious risk
- resolving complaints about the conduct of providers, responsible persons, and aged care workers, and using complaints intelligence to inform risk-based regulation

- building sector capability by supporting providers, responsible persons, and aged care workers to understand and meet their responsibilities, and driving continuous improvement in the quality of care
- working with government and stakeholders to strengthen the regulatory system and contribute to broader policy outcomes.

The Commission is responsible for upholding older persons' rights and ensuring providers comply with the Act, including in relation to quality and safety, governance, and financial and prudential obligations. This includes monitoring compliance against conditions on provider registration under Chapter 3 of the Act.

While the Commission's compliance and enforcement responsibilities are separate to the compliance role of the System Governor and the department, both organisations support the high-quality regulation of Australia's aged care system.

When responding to non-compliance, the department and the Commission will deliver a coordinated response that ensures non-compliance is managed appropriately. In certain cases, this may involve referring information related to non-compliance to the entity who is best equipped to handle the issue.

Please refer to [Appendix A](#) for more detail on roles and responsibilities and [Appendix C](#) for a comparison between the roles of the System Governor and the Commission.

## 1.4 What is non-compliance?

This framework focuses on non-compliance with obligations or requirements under the Act that fall within the System Governor's functions. An example is a provider failing to adhere to obligations about the appropriate management, administration, accounting, and reporting of their Australian Government funding. This may include, but is not limited to:

- providers making inaccurate claims for subsidy. For example, making claims for funded aged care services that were not provided, duplicate claims or claims for incorrect amounts
- inappropriate use of Australian Government funds
- inaccurate reporting:
  - of activities that guide the amount of funding received or how funding has been utilised, for example, inaccurate reporting of care minutes or food and nutrition expenditure
  - against program requirements, for example, inaccurate self-reporting by providers of quality indicators or 24/7 registered nurse responsibility
  - in monthly Data Exchange (DEX) data, Annual Financial Declarations and Wellness and Reablement reporting, or failure to submit such reports

- leading to non-compliance with the Grantee Code of Conduct in a person or body's capacity as a grant recipient
- in any other report a registered provider is required to give to the Secretary, for example, the Aged Care Financial Report or Quarterly Financial Report.
- provision of false or misleading reporting/information to the department
- fraudulent or corrupt conduct.

## 1.5 Context of funding obligations

### 1.5.1 Context of aged care provider obligations

The department expects providers to act with integrity in the use of Australian Government funding. This includes being aware of, and understanding their obligations set out in the Act. The Act outlines the responsibilities of providers regarding accountability, record-keeping obligations and other compliance requirements. Providers are expected to be aware of their role in demonstrating payment integrity and safeguarding public resources.

In addition to obligations under the Act, grant recipients may also be subject to additional terms and conditions in the relevant grant funding agreement, which will outline details of:

- the grant
- related obligations in the use of the grant
- required reporting.

For further information, refer to [section 4.7](#).

### 1.5.2 Context of department obligations

The Act includes requirements relating to aged care funding and regulation. The *Aged Care Rules 2025* support the Act and give more detail on these requirements. The Act outlines the department's responsibilities relating to supporting compliance as the System Governor, such as conducting assurance reviews.

The department also has a responsibility to manage fraud<sup>4</sup> risks, and to manage public resources in a way that is efficient, economical, and ethical, under the *Public Governance, Performance and Accountability Act (2013)*.

The *Commonwealth Grants Rules and Principles 2024* establish a policy framework for grants administration.

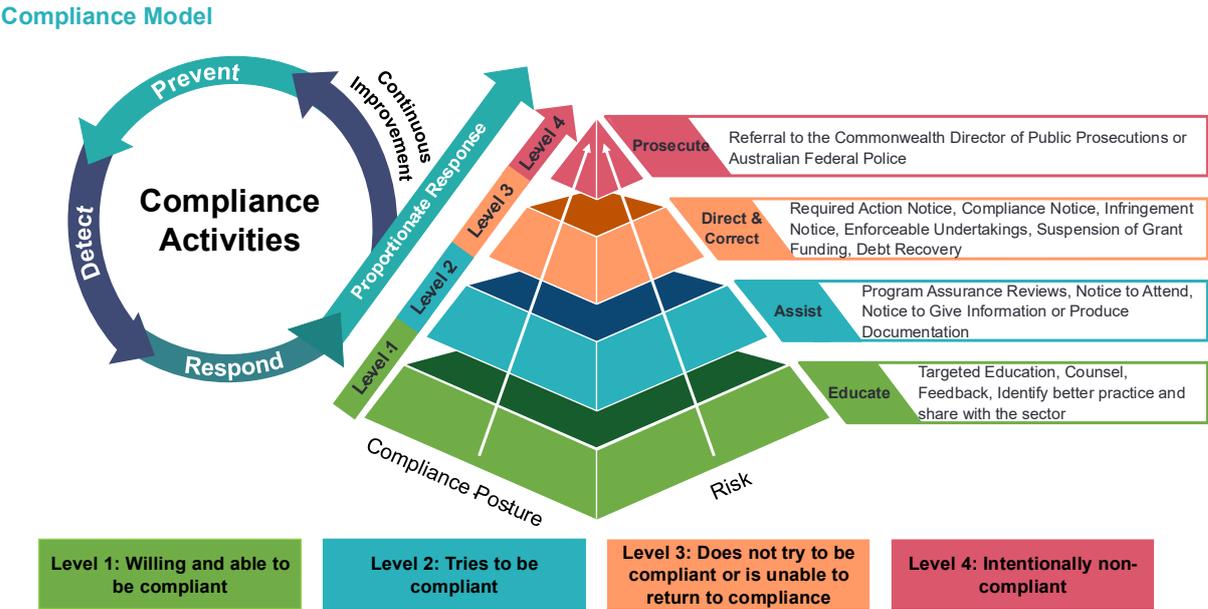
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<sup>4</sup> Fraud is defined as "dishonestly obtaining a benefit, or causing a loss, by deception or other means" (Commonwealth Fraud Control Framework, 2024).

# Section 2 – Compliance approach

The department takes a graduated approach to compliance based on a model that reflects best practice<sup>5</sup> compliance tools.

**Figure 1: Compliance model** (see also [Appendix D](#))



The department aligns its compliance approach to the Commission’s regulatory diamond where applicable. For example, being risk-led and proportionate, and supporting provider continuous improvement to get better outcomes for older people.

## 2.1 Compliance principles

The department’s compliance model supports voluntary compliance and continuous improvement where possible and is informed by the rights-based foundation of the Act. As an Australian Government entity performing regulatory functions, the department adheres to the three principles of regulatory best practice principles<sup>6</sup> included in our corporate plan:

- Principle 1: Continuous improvement and building trust

<sup>5</sup> Ayres and Braithwaite: Responsive Regulation, 1992.

<sup>6</sup> Regulator Performance (RMG 128) | Department of Finance

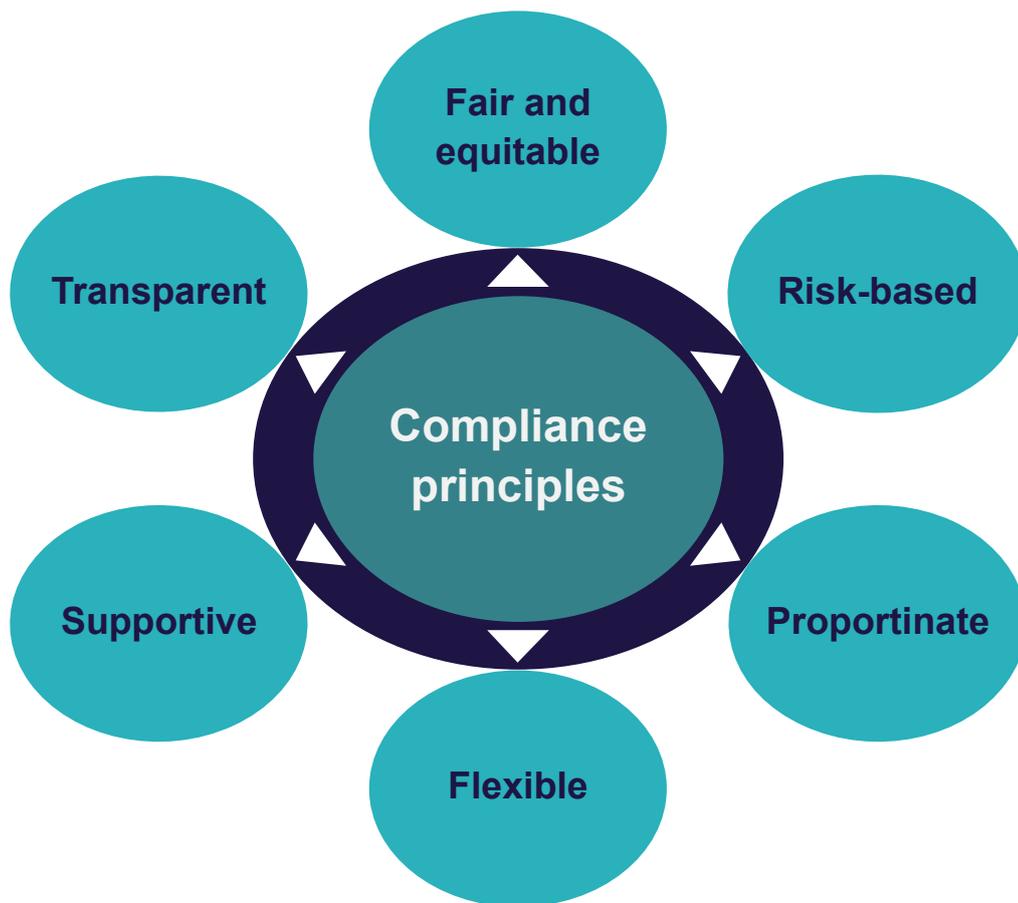
- Principle 2: Risk based and data-driven approaches
- Principle 3: Collaboration and engagement.

The framework is principles-based and not prescriptive. It enables the department to evolve its approach to identify and respond to risks in the changing aged-care landscape. This includes changes to legislation, policies or programs.

The department encourages a strong integrity culture. Integrity is embedded in everything we do, from the conduct of individual staff to systems, processes and practices. This enables better decision making and supports the sustainability of the aged care system.

The following principles underpin the framework and are reflective of the department's compliance model. These principles will allow the department to identify and address potential compliance issues early, while reducing unnecessary burden on providers.

**Figure 2: Principles of the compliance framework**



## **Fair and equitable**

A main principle of the framework is that the department will approach compliance fairly and equitably. This will support the department in making decisions impartially, transparently and based on relevant facts.

## **Risk-based**

The department's compliance approach will consider risks to the older person or the aged care system. This will be informed by evidence and intelligence before the department.

## **Proportionate**

The department will take a balanced approach towards providers to address compliance issues. This means it will take lower-level actions where providers show a willingness to comply. To do this, the department will decide the appropriate action based on:

- the level of risk
- evidence the aged care provider is acting in good faith in relation to a matter
- the provider's previous compliance posture.

## **Flexible**

The department will tailor its compliance actions, rather than adopting a one-size-fits-all approach for providers. Additionally, the department will adapt to changes in aged care legislation, policy, program or organisational needs over time.

## **Supportive**

The department will give reasonable support to providers to meet their obligations under the Act. The department will, where possible, provide clear guidance about their obligations by communicating openly with providers. It will take a risk-based approach to determining activities to prevent, detect or respond to non-compliance with legislative obligations. It will also support the sector by identifying and sharing better practice.

## **Transparent**

The department will make the framework publicly available. In addition, the department will adhere to the principles of the framework to communicate clearly and consistently with affected parties about its compliance activities. This will include any actions taken in response to non-compliance.

## 2.2 Compliance actions

The department commits to working with providers to achieve voluntary compliance and better practice. The department's compliance actions will:

- hold providers to account to meet their legislative obligations while ensuring that continuity and quality of care for older people is maintained and promoted
- support and guide providers to comply with their legislative obligations as quickly as possible
- promote sector-wide compliance through deterrence
- show that there are consequences for providers who do not comply with their legislative obligations.

There is a range of compliance tools that the department will consider when responding to non-compliance, including:

- targeted education
- monitoring feedback
- reporting assessments
- assurance reviews
- investigations
- compliance notices
- infringement notices
- enforceable undertakings
- injunctions
- required actions notices
- notice to attend to answer questions or give information or documents
- notice to give information or produce documents
- reduction or suspension of grant payments
- debt recovery
- referrals to the Commission or other agencies, with a potential impact on an aged care provider's registration
- referral to the Australian Federal Police or the Commonwealth Director of Public Prosecutions.

Further detail on the department's approach to dealing with non-compliance is in [Section 3](#) of this document.

# Section 3 – Compliance activities

To support the department's compliance approach, the department undertakes a range of activities aimed to prevent, detect, and respond to non-compliance. A summary of these activities is outlined below:

## 3.1 Prevention activities

The department acknowledges that many providers may still be adjusting to the new aged care reforms. The department commits to taking a preventive approach to non-compliance by assisting and supporting providers to understand their obligations and how to comply. The following summarises the department's prevention activities:

### 3.1.1 Education and sector engagement

One of the main prevention activities undertaken by the department is to give ongoing education and support to providers. This includes engaging with the sector to promote the framework and clarify expectations about compliance. The department may offer targeted education to providers facing challenges to meet their legislated obligations. To support this, the department uses its website, media and appropriate messaging tools to help providers in understanding and meeting their responsibilities.

Additional methods such as Communities of Practice, dedicated webinars, open letters and other communication channels can be used to broadcast messages to the sector.

Education and engagement activities are designed to reinforce the importance of delivering aged care services that uphold the dignity, autonomy, and wellbeing of older people. The department encourages providers to embed these values into its practices, ensuring that care is person-centred and responsive to the needs and preferences of older people.

Refer to [Section 4.7](#) of the framework for more information on the department's available resources.

### 3.1.2 Collaboration

The department engages with several different external stakeholders when responding to non-compliance. Aligning with other stakeholders is a crucial prevention strategy for the department to gather intelligence and share information. It

also facilitates a consistent and co-ordinated compliance response<sup>7</sup>. A description of **external** stakeholder roles can be found in [Appendix A](#).

In addition, depending on the nature and severity of the non-compliance, it may be necessary to use the expertise and experience of several teams across the department to address the non-compliance.

In addressing non-compliance, the department and the Commission will provide, where practicable, a coordinated response to ensure the non-compliance is effectively managed while reducing unnecessary regulatory burden. In some instances, this may necessitate referring information regarding the non-compliance to the entity that is best suited to address the issues at hand.

## **3.2 Detection activities**

The department utilises several detection mechanisms to identify non-compliance as early as possible. This helps prevent significant non-compliance events or consequences.

### **3.2.1 Program assurance reviews, audits, assessment reviews or similar**

The department may conduct routine program assurance or similar activities, including reviews and audits related to mandatory reporting or the use of aged care funding by registered providers. During these activities, the department may identify non-compliance with program requirements. Targeted assurance reviews may also occur where indicators suggest potential non-compliance.

### **3.2.2 Data analytics**

The department is continuing to build its data analytics capability to improve the accuracy and efficiency to detect potential non-compliance and fraud. By using data analytics, the department can use existing intelligence to identify activity (such as irregular trends or patterns) that may indicate potential non-compliance or fraud.

### **3.2.3 Tip-offs and complaints**

The department views tip-offs and complaints as two effective methods for detecting possible non-compliance or fraud. There are several avenues for departmental staff, providers and their staff, older people, or members of the community to raise compliance related issues, including anonymously. These include:

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<sup>7</sup> When referring matters to other agencies, the department will adhere to applicable privacy and information sharing requirements and legislation.

**Table 1: Reporting avenues for department tip-offs and complaints**

<b>Method</b>	<b>Details</b>
Writing to the department about a CHSP program or payment related concern	<a href="mailto:CHSPprogram@health.gov.au">CHSPprogram@health.gov.au</a> <a href="mailto:CHSPcompliance@health.gov.au">CHSPcompliance@health.gov.au</a>
Writing to the department about a Support at Home related program integrity concern to give intelligence for current or future program assurance reviews	<a href="mailto:SaHreviews@health.gov.au">SaHreviews@health.gov.au</a>
Writing to the department about a possible fraud matter in relation to aged care programs	Email: <a href="mailto:agedcarefraud@health.gov.au">agedcarefraud@health.gov.au</a> Address: Fraud and Integrity Branch MDP520, GPO Box 9848 Canberra ACT 2601 Australia
Using the department's Fraud Hotline	Telephone Number: 1800 829 403
Using the department's online form	<a href="#">Report suspected fraud online form</a> Or <a href="http://www.health.gov.au">www.health.gov.au</a> using the search term 'Report Fraud'

The department records and responds to all aged care tip-offs.

Once a tip-off is received the department will review and assess the report to decide next steps. The department takes all reports seriously and will handle all information confidentially and in accordance with the strengthened whistleblower protections in the *Act and the Privacy Act 1988* (Cth).

### **3.2.4 Data sharing**

Government agencies collect and maintain different sets of data. By engaging in data sharing arrangements,<sup>8</sup> the department can consider multiple data sources and use existing knowledge. Additionally, different teams in the department may also share intelligence with one another, which can lead to detecting non-compliance early.

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<sup>8</sup> When sharing data, the department will adhere to data sharing requirements and legislation.

## 3.3 Responding to non-compliance

When evaluating non-compliance and determining possible actions the department will consider several relevant factors. It aims to adopt a tailored and flexible approach which considers aspects of non-compliance, including but not limited to:

- the nature of the non-compliance
- the period over which the non-compliance occurred
- the willingness and ability of the provider to meet their obligations and mitigate any risk to the older people.
- whether the non-compliance was deliberate or a genuine mistake
- the provider's history of non-compliance (if any) with the department and consideration of non-compliance managed by other regulators
- whether the provider self-reported or self-corrected the non-compliance
- whether the provider has taken action to address the non-compliance and prevent it from happening again.

## 3.4 Compliance toolkit

When responding to non-compliance, the department will take a risk-based approach and will consider the nature and severity of the non-compliance. The chosen method and tools used to respond to non-compliance will be at the department's discretion. The department will collaborate with the Commission to calibrate the use of these tools where appropriate. These tools will be used in accordance with the Act and in line with the Compliance Principles outlined in the framework.

At a general level, but subject to the specific legislative provisions, before imposing a compliance action, the department must be satisfied that the provider has failed or is potentially failing to comply with one or more of its legislative obligations. The department will consider whether there is sufficient, relevant, and reliable evidence to satisfy that a provider has failed, or is potentially failing, to comply.

The summary below outlines the tools available to the department:

### Level 1: Educate

#### 3.4.1 Education activities

As an initial measure, the department may choose to conduct further education activities to support the provider in understanding their legislative obligations. This may include feedback and targeted education on the identified non-compliance or additional support for providers as required through the [Rural, Remote and First Nations Aged Care Service Development Assistance Panel \(SDAP\)](#) and the [Business and Workforce Advisory Service](#).



## Level 2: Assist

### 3.4.2 Targeted program assurance reviews, assessment reviews or similar

The department may choose to conduct targeted program assurance reviews under Part 12 of the Act or similar activities where non-compliance has been identified. This will occur through routine program assurance reviews or deeper and more targeted reviews when there is an indication that providers are at higher risk of non-compliance. The reviews may involve the collection and review of information and documents, and interviews with providers and older people receiving the provider's services (or their representatives). Where better practice is identified, this will be shared with the sector. A provider who fails to comply with an assurance related activity faces a civil penalty. Refer to section [3.4.15](#) for further information regarding civil penalties.

### 3.4.3 Required action notices

The purpose of a required action notice is to direct a provider to examine or investigate a matter and report back about the outcome. This notice can be issued under section 475 of the Act when the System Governor reasonably suspects that the registered provider has not complied, or is not complying, with the Act. A provider who fails to comply with a required action notice faces a civil penalty of 30 penalty units. Refer to section [3.4.15](#) for further information regarding civil penalties.

### 3.4.4 Notice to attend

Under section 489 of the Act, the System Governor may choose to issue a notice to attend to require a person to attend before an authorised System Governor officer. The person would be required to answer questions relating to a matter and/or give information or documents as specified in the notice. Failing to comply with a notice to Attend is an offence and carries a civil penalty of 30 penalty units. Refer to section [3.4.15](#) for further information regarding civil penalties.

### 3.4.5 Notice to give information and produce documentation

The System Governor may, by written notice, require a person to give information or produce any documents (or copies of documents) specified in the notice under section 494 of the Act. The notice must give 14 days, or another reasonable time as stated in the notice, to comply. A person who fails to comply with a notice to give information and produce documents may face an offence or civil penalty of 30 penalty units. Refer to section [3.4.15](#) for further information regarding civil penalties.

## Level 3: Direct and correct

### 3.4.6 Compliance notice

The System Governor may issue a compliance notice under section 482 of the Act. A compliance notice is issued when the System Governor is:

- satisfied that the provider has not complied, or is not complying, with the Act; or
- is aware of information that suggests that the provider may not have complied, or may not be complying, with the Act.

A compliance notice is a formal notice sent to the provider to prompt them to rectify the non-compliance. A provider who fails to comply with a compliance notice faces a civil penalty of 60 penalty units. Refer to section [3.4.15](#) for further information regarding civil penalties.

### **3.4.7 Infringement notice**

For non-compliance with specified provisions of the Act, the System Governor may issue an Infringement notice under section 450 of the Act. An infringement notice is an official document to the provider informing them of their non-compliance. The notice includes details of a penalty in the form of a fine. The infringement notice will outline how much the provider must pay, the due date for payment, and the consequences of not paying the fine.

### **3.4.8 Enforceable undertakings**

An enforceable undertaking is a written undertaking given by a provider, and accepted by the System Governor, that the provider will take specified action or refrain from taking specified action to comply with a provision of the Act or to avoid non-compliance with a provision of the Act. An enforceable undertaking may be issued under section 460 of the Act.

A provider may volunteer to enter an enforceable undertaking to address non-compliance and avoid further compliance action. The enforceable undertaking will end on an agreed date or when the System Governor is satisfied that all terms have been completed. An enforceable undertaking is legally binding. Failure to comply with the undertaking may lead to the department taking court action against the provider.

### **Injunction**

An injunction occurs when the System Governor applies to the court for immediate intervention in response to serious non-compliance issues. Examples of this includes restraining a person from engaging in conduct in contravention of a provision of Part 4 of Chapter 3 of the Act and requiring the person to do a thing or requiring a person to do a thing that the person has failed to do which is a contravention of a provision of Part 4 of Chapter 3 of the Act. The System Governor can only make such an application if it relates to a function of the System Governor under section 468.

### **3.4.10 Investigation**

The department will refer a matter to the Fraud and Integrity Branch when an investigation under section 412 and 415 of the Act is required in response to non-compliance. The referral will contain all relevant information that has to do with the non-compliance. During an investigation, providers may be required to send extra

information to the department or may be required to participate in an interview. All investigations undertaken by the department comply with the requirements outlined in the [Commonwealth Fraud and Corruption Control framework](#) and the [Australian Government Investigation Standards](#).

#### **3.4.11 Reduction or suspension of grant payments**

In some circumstances, the System Governor may decide to reduce or suspend grant payments of an aged care provider. This may occur where non-compliance has been identified, such as if the provider has not used funding for its intended purpose. The department may change grant payments after receiving escalations from the Community Grants Hub (CGH) within the Australian Government Department of Social Services (DSS).



#### **3.4.12 Debt recovery**

In some circumstances the department may decide to initiate debt recovery actions under section 514 of the Act. For example, this may occur when a payment has been made to a provider who is not entitled to the payment.



### **Level 4: Prosecute**

#### **3.4.13 Referral to the Australian Federal Police or Commonwealth Director of Public Prosecutions**

The department will refer matters to the Australian Federal Police (AFP) or Commonwealth Director of Public Prosecutions (CDPP), based on the criminal offences identified by the Fraud and Integrity Branch. The CDPP may decide to prosecute in response to the criminal offences that have been identified. Referral to the AFP or the CDPP is used for serious non-compliance, such as fraud or corrupt conduct.



#### **Applies to all**

The following can be implemented at various stages throughout the compliance process:

#### **3.4.14 Referral to the Commission, with potential impact on registration**

In some circumstances the department may make a referral to the Commission.



A referral may occur when:

- the scope of compliance does not meet the System Governor's remit.
- the department identifies non-compliance that relates to a potential or actual harm to older people receiving aged care.

The department does not have the power to revoke a provider's registration, and more information can be found in the Commission's [Compliance and Enforcement Policy](#).

### **3.4.15 Civil penalties**

As outlined above, some notices have civil penalties<sup>9</sup> attached. If a provider does not comply with the requirements of a notice, the department may apply to the court for a civil penalty order.

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<sup>9</sup> A monetary fine imposed by a court

# Section 4 – Additional information

## 4.1 Procedural fairness

When responding to non-compliance the department will uphold the administrative law principle of procedural fairness. This means the department will:

- give providers the opportunity to respond to the department's requests and self-correct non-compliance, where appropriate, before imposing any actions
- communicate the department's decision-making process to providers, including how and why certain decisions are made
- avoid any actual and perceived conflicts of interest during the decision-making process
- give providers a right of reply and, an opportunity to give extra evidence
- give providers a right to review or appeal the decision.

If the department becomes aware of potential non-compliance that may put older people at immediate or severe risk, the matter is referred to the Commission.

## 4.2 Request for reconsideration

In respect of certain decisions, if a provider is affected by a decision made by the department in response to non-compliance, the provider may request a review or reconsideration of the department's decision. Provided a provider has reasonable grounds to do so, a reconsideration can be made under section 559 of the Act. Requests for reviews or reconsiderations can be made to the department in writing.

As part of the reconsideration process, the department will:

- acknowledge the request in writing
- advise the provider of the Australian Government's reconsideration process and what they can expect, including indicative timeframes
- refer the reconsideration request to an independent departmental decision maker (delegate) who was not involved in making the original decision
- give an outcome to the provider, as determined by the independent decision maker in the legislated 90-day time frame.

Where the provider would like a further review or otherwise appeal a decision, the provider may apply to the Administrative Review Tribunal for review of a reconsideration decision.

## 4.3 Reporting to the public

The department may choose to publicly release information about non-compliance matters, where this would support the department's outcomes (or is required by law). These matters will be shared in accordance with the department's legal obligations, including obligations under the Act and the *Privacy Act 1988 (Cth)*.

## 4.4 Communication with older people

If a provider has been found to be non-compliant, then there is an expectation that the provider will contact older people to explain:

- the non-compliance
- what the potential consequences may be
- what they are doing to address the non-compliance
- what steps are being taken to prevent non-compliance in the future.

Providers must ensure all communication with older people are consistent with the Statement of Rights and reinforces the rights-based approach of the Act.

## 4.5 Continuous improvement

The department is committed to monitoring the application of the framework, seeking feedback, and understanding any potential opportunities for improvement. We seek and welcome feedback from providers and the community on the department's compliance approach and our performance.

This can be submitted via:

[agedcarecompliance@health.gov.au](mailto:agedcarecompliance@health.gov.au)

## 4.6 Privacy

When managing non-compliance, all personal information will be managed according to the *Privacy Act 1988 (Cth)*, the Australian Privacy Principles (APPs), and the Australian Government Agencies Privacy Code. The department's Privacy Policy can be found [here](#).

## 4.7 Additional resources

The department commits to educating providers on compliance matters and has a wide range of resources available to help providers with understanding their obligations. Further details are provided below.

## **Funding for aged care providers**

The Australian Government pays providers to deliver aged care services. It does this through grants and subsidies funded through aged care programs. Read an [outline of the types of aged care funding available](#).

## **Responsibilities of aged care providers**

Providers have certain responsibilities. These include providing quality care and services, managing fees and charges, and meeting Australian Government requirements. Read an [overview of these responsibilities](#).

## **The Australian National Aged Care Classification (AN-ACC) funding guide**

This guide informs approved residential care providers on the AN-ACC funding model. [Read the guide](#) to understand how to receive AN-ACC subsidies, including relevant compliance requirements that may apply.

## **Commonwealth Home Support Program manual**

This 2025-2027 manual provides an overview of the Commonwealth Home Support Program (CHSP), including the service types it funds and requirements for delivering those services. It is for CHSP-funded service providers to use, and forms part of the CHSP grant agreement. Read the [CHSP manual](#).

## **National Aboriginal and Torres Strait Islander Flexible Aged Care program manual**

The manual is a guide for providers who receive funding under National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP). The manual outlines the requirements of the program including service planning, staffing, health and safety, quality and advocacy. Read the [NATSIFACP manual](#).

## **Support at Home program manual**

The program manual is a guide designed to help registered providers to understand and comply with the Support at Home program rules, procedures, and obligations. The program manual is a general guide for providers on the policy intent of the Support at Home program. Read the [Support at Home program manual](#).

## **Care minutes and 24/7 registered nurse responsibility guide**

This guide educates providers on care minutes targets; the 24/7 registered nurse responsibilities from 1 July 2023; and mandatory care minutes responsibilities from 1 October 2023. [Learn more about these responsibilities](#), including definitions and reporting obligations.

## **National Aged Care Mandatory Quality Indicator Program (QI Program)**

This manual covers the aged care quality indicators, how to collect and submit data. It provides a range of tools and resources as well as information on how to access and use the QI Program tools in the My Aged Care portal. [Learn more about these responsibilities](#), including definitions and reporting obligations.

For more resources, visit <https://www.health.gov.au/resources>.

# Section 5 – Appendices

## Appendix A

**Table 2: Roles and functions of the Secretary of the Department of Health, Disability and Ageing (the System Governor) and external stakeholders**

### Department of Health, Disability and Ageing – System Governor

Role	Responsibility
All department staff	<p>All staff in the department (including those working in aged care areas) are responsible for managing and responding to non-compliance. Specifically, non-compliance with obligations in relation to the administration, accounting, management and reporting of department funding and associated activities. This includes:</p> <ul style="list-style-type: none"> <li>• engaging in relevant prevention and detection activities to help prevent and identify instances of non-compliance</li> <li>• using a co-ordinated and consistent approach when responding to non-compliance, including referring non-compliance to the relevant Branch or external party when required</li> <li>• conducting a risk assessment of identified non-compliance and escalate when appropriate.</li> <li>• ensuring the System Governor has access to information to complete its regulatory functions</li> <li>• advising the Commission of identified non-compliance by providers with reporting requirements including the Aged Care Financial Report and Quarterly Financial Report</li> <li>• contributing to the department’s compliance culture</li> <li>• promoting ethical behaviour and highlighting system integrity, both internally and externally.</li> </ul>
Program areas	<p>Program areas in the department (including those working in aged care areas) are responsible for identification and management of risks. Including risks regarding individual funding programs and acting as the ‘First Line’ against non-compliance and fraud. This includes:</p>

Role	Responsibility
	<ul style="list-style-type: none"> <li>• identifying program level risks through performing regular risk assessment processes</li> <li>• implementing controls and other activities to mitigate the identified risks to an acceptable level</li> <li>• supporting day-to-day risk management activities of programs, such as program assurance activities</li> <li>• performing routine reporting to Executives and raising any issues, as required.</li> </ul>
Executive committee	<p>The Executive Committee operates in an advisory capacity to the System Governor as the Chief Executive. The committee is responsible for providing strategic direction and leadership so that the framework is operating effectively. This includes:</p> <ul style="list-style-type: none"> <li>• providing stewardship through effective decision-making and governance</li> <li>• to ensure compliance objectives are achieved</li> <li>• shaping the department's compliance culture</li> <li>• monitoring and addressing the department's compliance risks.</li> </ul>
Audit and risk committee	<p>The Audit and Risk Committee is responsible for providing independent advice and assurance to the System Governor on the appropriateness and effectiveness of the department's compliance activities. This includes:</p> <ul style="list-style-type: none"> <li>• providing oversight of the department's current and planned compliance activities</li> <li>• assessing quarterly reports on the department's compliance measures</li> <li>• monitoring and providing advice when required relating to the department's response to major non-compliance incidents.</li> </ul>
Delivery committee	<p>The Delivery Committee operates as an advisory body to the Executive Committee. The committee is responsible for endorsing project and program management related framework and policies</p>

## External stakeholders

Role	Responsibility
The Commission	<p><b>Aged Care Quality and Safety Commission</b></p> <p>The Commission is the Australian regulator of registered providers (providers). The Commission is responsible for protecting and enhancing the safety, health, well-being and quality of life of aged older people. The Commission also has several compliance responsibilities, including but not limited to:</p> <ul style="list-style-type: none"><li>• monitoring and assessing compliance against aged care provider responsibilities, including the Aged Care Quality Standards and the relevant Financial and Prudential Standards<sup>10</sup></li><li>• monitoring and assessing compliance against support at home provider responsibilities</li><li>• taking appropriate action for non-compliance with reporting requirements, including the Aged Care Financial Report and Quarterly Financial Report</li><li>• administering the Serious Incident Response Scheme and taking regulatory action in response to matters that are identified</li><li>• administering the Aged Care Code of Conduct and Banning Orders register</li><li>• taking compliance and enforcement actions where registered providers do not meet their aged care responsibilities</li><li>• undertaking education, awareness raising and sector capability activities to promote compliance</li><li>• revoking the registration of an entity as a registered provider if, among other things, they are no longer suitable to provide aged care</li><li>• referring non-compliance with payment integrity matters to the department.</li></ul>

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<sup>10</sup> Note: Providers who hold refundable deposits are required under the *Aged Care Act 2024* to comply with the Financial and Prudential Standards, including the Disclosure Standard, Governance Standard, Records Standard and Liquidity Standard. These specify requirements relating to the protection of refundable deposits, the sound financial management of providers and provision of financial information to the Government and care recipients. More information about provider responsibilities in relation to Financial and Prudential Standards can be found [here](#).

Role	Responsibility
Services Australia	<p>Services Australia distributes funding (excluding grants) to providers for delivering care and services to older people in Australia through subsidies and supplements<sup>11</sup>.</p> <p>In the context of the framework, Services Australia is responsible for:</p> <ul style="list-style-type: none"> <li>• establishing and engaging in compliance activities as agreed between Services Australia and the department</li> <li>• referring potential non-compliance regarding payment integrity to the department</li> <li>• suspending or withholding payments because of non-compliance, as directed by the department.</li> </ul> <p>When responding to non-compliance, the department may liaise with Services Australia to request delay or suspension of future funding.</p>
Department of Social Services	<p>The Department of Social Services plays an important role in supporting older people in Australia by managing grants through the Community Grants Hub.</p> <p>In the context of the framework, DSS is responsible for:</p> <ul style="list-style-type: none"> <li>• receiving grant reports and assessing these reports against the requirements set out in the relevant funding agreement</li> <li>• referring potential non-compliance as it relates to a grant agreement with the department.</li> </ul> <p>When responding to non-compliance, the department may liaise with DSS and work together to arrive at a suitable compliance response. The response will be proportionate to the severity of the non-compliance (which may include the suspension or distribution of any further grant payments).</p>
Aged care providers (providers)	<p>All providers of Government funded aged care services have responsibilities under the <i>Aged Care Act 2024</i>. Providers are expected, in accordance with this framework to show system integrity by using aged care funding to</p>

<sup>11</sup> Refer to <https://www.health.gov.au/topics/aged-care/providing-aged-care-services/funding-for-aged-care-service-providers/aged-care-subsidies-and-supplements> for more information on subsidies and supplements.

Role	Responsibility
	<p>deliver aged care services in line with their obligations under the Act. This includes:</p> <ul style="list-style-type: none"> <li>• providing accurate details when applying for aged care funding</li> <li>• using aged care funding in the way that it was intended</li> <li>• maintaining accurate records of funding received, and the allocation of funds</li> <li>• complying with the requirements of the relevant funding program</li> <li>• regularly monitoring compliance, and self-reporting non-compliance when discrepancies are identified</li> <li>• cooperating with the department's compliance efforts, where required to do so</li> <li>• adhering to reporting requirements as set out in the relevant legislation or funding agreement</li> </ul> <p>seeking support from the department when required.</p>
The Australian Competition and Consumer Commission	The Australian Competition and Consumer Commission (ACCC) is responsible for enforcing the <i>Competition and Consumer Act 2010</i> . The department will refer non-compliance matters that involve unlawful charging or overcharging of aged care fees to the ACCC.
Australian Federal Police	It is the responsibility of the AFP to investigate serious or complex fraud against the Australian Government. The department will refer matters that constitute potential fraud to the AFP in accordance with the AFP's referral process.
State and Federal Police	The department will refer non-compliance that includes offences under State or Territory law, to the relevant State or Territory police.
Other Agencies	If the department receives allegations that are relevant to another Government agency, then the department will refer the matter to that agency.
Department of Veterans' Affairs	The Department of Veterans' Affairs (DVA) provides funding to eligible veterans and their families, including aged care services and support. If the department identifies potential non-compliance that involves a DVA

Role	Responsibility
	<p>participant, then the department will liaise with the DVA to co-ordinate an appropriate response.</p>
<p>Commonwealth Director of Public Prosecutions</p>	<p>If the department has obtained sufficient evidence that a criminal offence has occurred, then the department will refer the matter to the CDPP. The department will also prepare and give briefs of evidence that adhere to the Guidelines for dealings between Australian Government investigators and the CDPP.</p>
<p>National Disability Insurance Agency (NDIA) and National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission)</p>	<p>The National Disability Insurance Agency (NDIA) is responsible for implementing the NDIS, including managing funding and eligibility, complaints and fraud detection under the <i>National Disability Insurance Scheme Act 2013</i>. National Disability Insurance Scheme Quality and Safeguards Commission (NDIS Commission) regulates services and supports for quality and safety, including checking providers, handling complaints, and determine worker suitability.</p> <p>If the department identifies potential non-compliance that involves a NDIS participant, then the department will liaise with the NDIA or NDIS Commission to co-ordinate an appropriate response.</p>
<p>Australian Health Practitioner Regulation Agency</p>	<p>The Australian Health Practitioner Regulation Agency (AHPRA) is responsible for implementing the National Registration and Accreditation Scheme across Australia. The department will refer any concerns about the conduct of health professionals and any matters about their national registration and accreditation to AHPRA.</p>
<p>Independent Health and Aged Care Pricing Authority</p>	<p>The Independent Health and Aged Care Pricing Authority (IHACPA) aims to ensure all Australians have fair access to transparent, sustainable, and high-quality health and aged care.</p> <p>The IHACPA provides advice to inform Australian Government decisions on the costing and pricing of aged care services.</p> <p>If the department identifies potential non-compliance that involves a provider potentially overcharging a resident. For example, charging above the threshold for Refundable</p>

**Role****Responsibility**

Accommodation Deposits. The department may liaise with IHACPA.

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# Appendix B

The following main resources outline the funding obligations of providers

## Legislative obligations

Resource	Obligations
<i>Aged Care Act 2024</i>	<p>The <i>Aged Care Act 2024</i> underpins responses to around 60 Royal Commission recommendations, including to legislate:</p> <ul style="list-style-type: none"> <li>• the Government’s response to the Aged Care Task force recommendations</li> <li>• the Support at Home program</li> <li>• strengthened Aged Care Quality Standards</li> <li>• stronger powers for the Aged Care Quality and Safety Commission</li> <li>• a <u>Statement of Rights</u> for older People which includes the right to safe, quality care, dignity, respect, autonomy and participation in decision-making.</li> </ul> <p>More information about the <i>Aged Care Act 2024</i>  <a href="#">About the new rights-based Aged Care Act</a></p>

## Other funding obligations

Resource	Obligations
Grant agreements	<p>Each grant will be issued in line with the relevant grant agreement between the aged care provider and the department. The grant agreement will outline:</p> <ul style="list-style-type: none"> <li>• purpose of the grant</li> <li>• grant activity to be completed by the aged care provider</li> <li>• duration of the grant</li> <li>• payment of the grant, including amount and relevant bank information</li> <li>• required reporting under the grant</li> <li>• other grant requirements, relating to budgets, equipment and assets, and administration of funding.</li> </ul>

Resource	Obligations
	<p>Refer to the specific grant agreement with the department for more information.</p> <p><u>Grants and tenders</u></p>
<p>Funding arrangement guidance documents</p>	<p>Funding arrangements will be supported by materials published by the department. These can be used as a guide for relevant program or funding arrangements. For example:</p> <ul style="list-style-type: none"> <li>• <u><a href="#">About the Australian National Aged Care Classification funding model</a></u></li> <li>• <u><a href="#">Changes coming to care minutes funding</a></u></li> <li>• <u><a href="#">Commonwealth Home Support Program (CHSP)</a></u></li> <li>• <u><a href="#">Support at Home program manual</a></u></li> <li>• <u><a href="#">National Aboriginal and Torres Strait Islander Flexible Aged Care Program</a></u></li> <li>• <u><a href="#">Multi-Purpose Services (MPS) Program</a></u></li> <li>• <u><a href="#">Transition Care Program Guidelines</a></u></li> </ul> <p>Refer to <u><a href="#">Section 4.7</a></u> for links to more resources.</p>

## Appendix C

### Aged care regulatory and governance roles

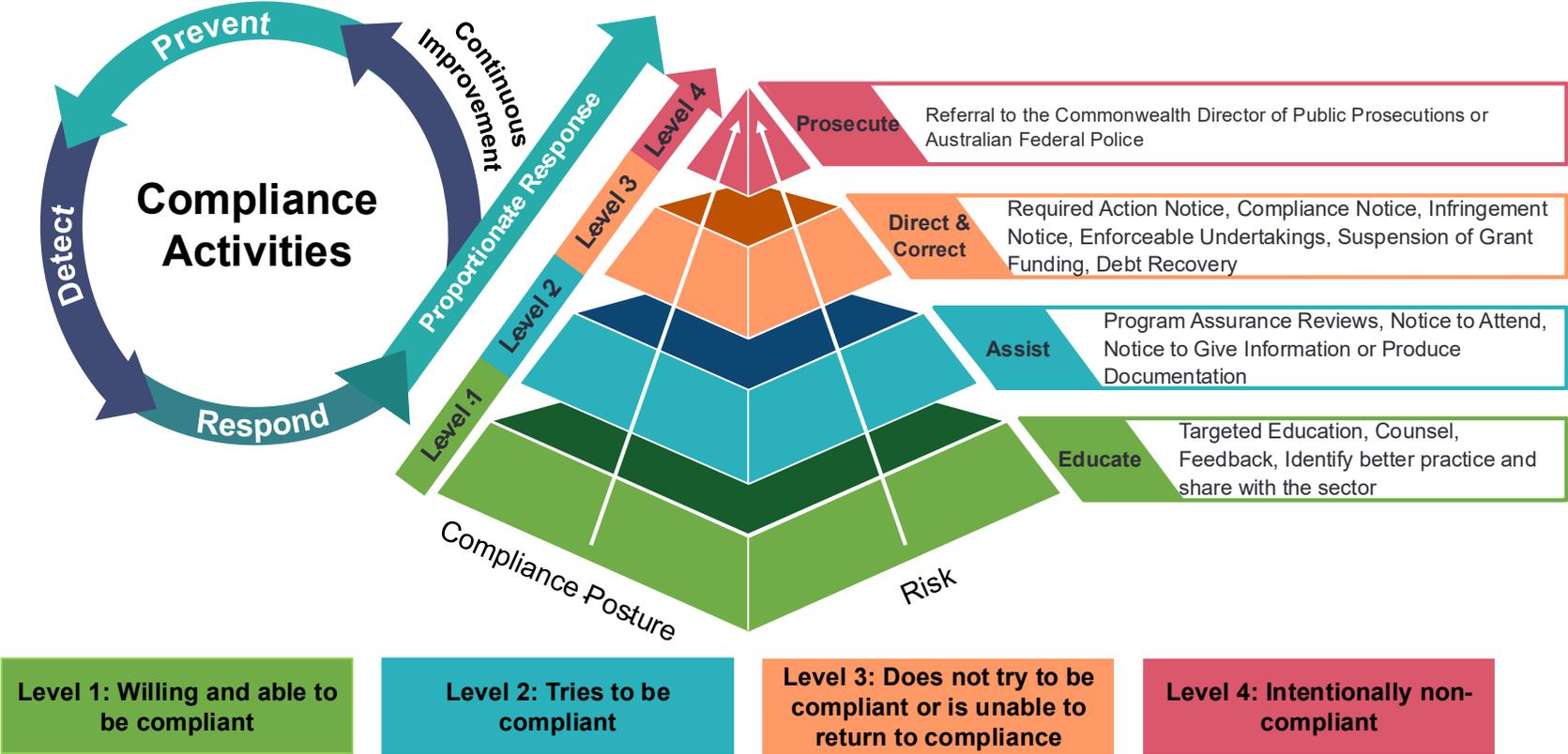
This is an excerpt from aged care regulatory and government roles.

<b>Department of Health, Disability and Ageing</b>	<b>Aged Care Quality and Safety Commission</b>
Develop and implement laws, including the Act.	Monitor aged care provider compliance with and enforce aged care laws.
Administer and evaluate the regulatory model – the rules and policies that shape provider behaviour and how the sector operates.	Regulate government-funded aged care providers, responsible persons, aged care workers and digital platform operators.
Develop and manage the policy for the regulatory framework, including the Statement of Rights, Aged Care Code of Conduct and Aged Care Quality Standards.	Monitor service quality and compliance with the Statement of Rights, Aged Care Code of Conduct and Aged Care Quality Standards as part of the broad regulatory framework.
Establish worker screening for aged care workers.	Ensure registered providers and aged care workers comply with worker screening requirements.
Uphold the rights of older people by enabling equitable access to funded aged care services, including palliative care and end of life services.	Uphold the rights of older people by managing and resolving complaints and feedback about registered providers, responsible persons or aged care workers, including Serious Incident Response Scheme reporting.
Provide stewardship of the aged care sector, including increasing availability of aged care services in areas of unmet demand.	Manage who enters and remains in the aged care system through provider registration and renewal.
Collect information, monitor and investigate to make sure providers meet their obligations and requirements in relation to its functions (e.g. program assurance).	Collect information, monitor and investigate to make sure providers meet their obligations and requirements in relation to its functions (e.g. registration and safeguarding).
Use notices to make a provider do, or not do, certain things in relation to its functions.	Use notices to make providers do, or not do, certain things. Use banning orders to stop or restrict a provider or worker or responsible

<b>Department of Health, Disability and Ageing</b>	<b>Aged Care Quality and Safety Commission</b>
	person from delivering services in certain situations.
Oversee and respond to reporting, including how aged care services are delivered, as well as about financial and prudential matters.	Oversee and manage reportable incidents and enforce the Financial and Prudential Standards.
Recognise and celebrate providers who are innovative and deliver high-quality care.	Publish data and insights on the sector and provider performance.
<b>BOTH</b>	
Support training and development of aged care workers.	
Improve sector capability and sustainability, and public trust and confidence in aged care.	
Empower older people to understand and exercise their rights under the Statement of Rights.	

# Appendix D

## Compliance Model



# Section 6 – Glossary

ACCC	Australian Competition and Consumer Commission
ACFR	Aged Care Financial Report
Act	<i>Aged Care Act 2024</i>
AFP	Australian Federal Police
Aged care compliance	Adherence to legal and regulatory requirements of the provision of care and services to older people.
Aged care provider (providers)	Registered providers under the Aged Care Act 2024 (this includes registered providers that receive subsidies and those that receive grant funding).
AHPRA	Australian Health Practitioner Regulation Agency
AN-ACC	Australian National Aged Care Classification funding model
APPs	Australian Privacy Principles
CDPP	Commonwealth Director of Public Prosecutions
CHSP	Commonwealth Home Support Program
Commission	Aged Care Quality and Safety Commission
Australian Government funding	Funding delivered to aged care providers through subsidies, grants, or other aged care programs.
Department	Australian Government Department of Health, Disability and Ageing
DEX	Data Exchange
DSS	Australian Government Department of Social Services

DVA	Australian Government Department of Veterans' Affairs
Funding obligation	Requirements that funding recipients must satisfy to comply with the Aged Care Act 2024 (Cth), or other obligations set out in relevant funding documents
NATSIFACP	National Aboriginal and Torres Strait Islander Flexible Aged Care Program
NDIA	National Disability Insurance Agency
NDIS	National Disability Insurance Scheme
NDIS Commission	National Disability Insurance Scheme Quality and Safeguards Commission
Older people	A person approved under the Aged Care Act 2024 as a recipient of aged care.
Payment integrity	The management, administration, accounting, and reporting of aged care funding in line with applicable legislation, funding, or other program requirements (such as subsidy/grant requirements).
Payment integrity compliance	Adherence to legal and regulatory requirements of the administrative, accounting, management, and reporting requirements of aged care funding. The department will monitor payment integrity compliance.
Principles-based	An approach that uses overarching principles rather than prescriptive rules
QFR	Quarterly Financial Report
Royal Commission	Royal Commission into Aged Care Quality and Safety (2018), which inquired into the quality of aged care services in Australia whether those services were meeting the needs of the community, and how they could be improved in the future.

SaH	Support at Home, which is the programmatic name for funded aged care services delivered through the service groups home support, assistive technology and/or home modifications.
SDAP	Rural, Remote and First Nations Aged Care Services Development Assistance Panel
Statement of Rights	Outlines the rights that older people will have when accessing aged care services
System Governor	Under the Aged Care Act 2024, the Secretary of the Department of Health and Aged Care becomes the System Governor, who is responsible for the operations and oversight of the aged care system.
The framework	The System Governor aged care compliance framework
Thin markets	Regions in Australia with low demand and/or low supply of aged care services