



**Australian Government**  
**Department of Health**

# **Memorandum of Understanding**

between

Department of Health

and

Aged Care Quality and Safety Commission

**Schedule 1: Communication & Data**

April 2019

## Contents

1. Introduction .....	4
2. Objectives .....	4
3. Case Management.....	4
4. Meetings .....	4
4.1. Strategic engagement .....	4
4.2. Engagement on National/Central Office matters .....	4
4.3. State/regional operational engagement.....	5
5. Data Exchange .....	6
5.1. Legislative basis for data collection .....	6
5.2. Provision of Commission data to the Department .....	6
5.3. Provision of Departmental data to the Commission .....	6
5.4. Ad-hoc Data Requests .....	6
5.5. Data quality .....	6
5.6. Exchange of Compulsory Reporting Data .....	6
5.7. Data contacts in the Department and the Commission.....	7
6. Information Exchange.....	7
6.1. Referrals from the Department to the Commission .....	7
6.2. Types of Referrals.....	7
6.3. Process for Making a Referral .....	8
6.4. The Commission's Consideration of Referrals .....	8
6.5. Referrals from the Commission to the Department.....	8
6.6. Process for making a referral .....	8
6.7. Format and Content of the Referral.....	8
6.8. The Department's consideration of Referrals.....	9
7. Exchange of Information from the Aged Care Quality and Safety Commission to the Department.....	9
7.1. Commission Reports and Decisions .....	9
7.2. Information about accreditation decisions.....	9
7.3. Notification of non-compliance with the Accreditation Standards, the Home Care Standards or NATSIFACP Quality Framework (and the new Aged Care Quality Standards from 1 July 2019) .....	10
7.4. Departmental consideration of information for accreditation and non-compliance decisions.....	10

7.5. Process for Exchange of Information .....	10
8. Serious Risk and Early Release of Information .....	10
8.1. Early notification of issues .....	10
8.2. Notification of Serious Risk .....	10
8.3. Format and content of Serious Risk Information .....	10
8.4. Department Actions following Serious Risk Notification .....	11
9. Visits to residential aged care and home care services .....	11
10. Information required for court or tribunal proceedings .....	11
11. Consultation or discussion papers .....	11
12. Disclosure of Information .....	11
13. Signatories.....	12

## 1. Introduction

**Schedule 1: Communication and Data (the Schedule) supports the Memorandum of Understanding (MoU) and focusses on the collaboration that will underpin the relationship between the Department of Health (the Department) and the Aged Care Quality and Safety Commission (the Commission).**

**Strong, ongoing communication and sharing of data between the Department and the Commission will facilitate a coordinated approach in the protection of care recipients.**

**The Schedule will be reviewed collectively by the Department and the Commission in conjunction with the MoU.**

## 2. Objectives

**The key objectives of the Schedule are to:**

- **Support transparent and appropriate information sharing with a focus on the shared objectives of the Department and the Commission;**
- **Share data to discharge their respective roles and responsibilities; and**
- **Encourage ongoing and relevant two way communication, particularly as this relates to matters that concern either organisation and those with particular public sensitivity.**

## 3. Case Management

**Where a provider is found to be non-compliant or where a provider requires close monitoring due to the severity of risk to care recipients, case management will support the functions of both organisations and ensure that there is coordinated and appropriate risk management. The following case management principles will support the approach to information sharing:**

- **Coordinated and collaborative**
- **Early and regular engagement**
- **Relevant information is communicated**
- **Ongoing review of the case management approach**

**Where there is a sensitive public issue that may affect the Department and/or the Commission a proactive and collaborative approach to sharing information will ensure that the issue is managed appropriately and any media is responded to in a coordinated manner.**

## 4. Meetings

### 4.1. Strategic engagement

**Meetings will occur at a strategic level on at least a quarterly basis, in line with mutually agreed Terms of Reference.**

### 4.2. Engagement on National/Central Office matters

**Engagement on national matters between the Department and the Commission will focus on the day-to-day activities as well as emerging issues and trends that will support the functions of both organisations. Meetings will occur monthly or on an as required basis.**

Meetings will discuss national matters of interest to both organisations including, but will not be limited to:

- Systemic issues identified through data analysis in relation to the performance of residential and home care providers and services, Commonwealth Home Support Programme (CHSP) providers and National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP) providers.
- Residential aged care homes of interest. This may include where complaints have been received and referred that have a policy implication, that have unmet outcomes, have a planned accreditation audit, are being monitored, or have a review audit planned or underway.
- Services or providers of concern. This may include those that have non-compliance being managed by the Department or they are being monitored.
- Case management strategies as required.
- Significant media issues.
- Other issues that may be relevant to the functions of either organisation, i.e. Coronial Inquests, discussion papers, referrals, etc.
- Royal Commission requests.

#### 4.3. State/regional operational engagement

Local operational engagement between the Department and the Commission will focus on the day-to-day activities and will support the functions of both organisations. Meetings will occur monthly or on an as required basis and may include a standing invitation to the Community Grants Hub to engage on relevant grant program related non-compliance.

Meetings will discuss local operational matters of interest to both organisations and may include, but not limited to:

- Residential and home care services and providers, CHSP providers and NATSIFACP providers that are not meeting or may not meet the Accreditation Standards, the Home Care Standards or the NATSIFACP Quality Framework (or the single Aged Care Quality Standards from 1 July 2019).
- Providers not meeting their responsibilities under the *Aged Care Act 1997* when a notice or a direction has been issued.
- Complaints trends and referrals relevant to each state/territory.
- Review audits that are planned or underway.
- Services placed on a Timetable for Improvement (TFI).
- Services/providers that have been placed under sanction by the Department.
- Services/providers that have been or may be given a notice of non-compliance.
- Services/providers subject to a referral or that have been referred.
- Information in relation to planned visits by either organisation to ensure a co-ordinated approach.
- Risk data in relation to services/providers, including major changes in personnel, financial viability issues, where a shorter accreditation period has been granted or accreditation revoked.
- Other issues related to aged care that may be relevant to the functions of either organisation.

## 5. Data Exchange

### 5.1. Legislative basis for data collection

**The Commission and the Department each collect and hold data required by the other for doing their business. Legislative and contractual instruments provide a means by which data is shared.**

### 5.2. Provision of Commission data to the Department

**The Commission will provide the Department with complaints, extracted accreditation and quality review status data for all providers and services requiring accreditation or quality review by the Commission. This would be provided as soon as practicable following the decision.**

**The Commission will also provide the Department historical provider and service level accreditation and quality review data as requested by the Department to perform its functions.**

### 5.3. Provision of Departmental data to the Commission

**The Department will provide the Commission with aged care provider and service and non-identifying consumer data on a monthly basis. The Department will also provide the Commission with weekly reports outlining any new aged care providers within the last 16 days. The Commission will use the data for carrying out its functions.**

### 5.4. Ad-hoc Data Requests

**Ad-hoc data requests by the Department or the Commission must be permissible under legislation and/or funding agreements and support business activities. Each agency should ensure they respond to an ad-hoc data request in a timely manner but ensure it does not distract from other legislatively required work of either agency (for example, annual reporting).**

### 5.5. Data quality

**The data from the Department and the Commission originates from live databases and consequently the data may change after extraction.**

**To reduce the risk of discrepancies between the Department's and the Commission's data, a data audit concerning the degree of accuracy of service/provider details in the shared data will be jointly performed annually.**

### 5.6. Exchange of Compulsory Reporting Data

**On a monthly basis the Department will provide the Commission with data from the National Complaints and Compliance Information Management System (NCCIMS) on the provider self-reported compulsory reports for unexplained absences and assaults to the Commission for consideration when planning and prioritising assessment contacts and to support case management.**

## 5.7. Data contacts in the Department and the Commission

For aged care compliance reporting, including compulsory reporting and prudential matters, contact [aged.care.compliance@health.gov.au](mailto:aged.care.compliance@health.gov.au). For all other data requests the contact within the Department is [agedcarereporting@health.gov.au](mailto:agedcarereporting@health.gov.au). Within the Commission the contact is [doh.referrals@agedcarequality.gov.au](mailto:doh.referrals@agedcarequality.gov.au) for requests for Quality, Monitoring and Assessment Group data, and [complaintsdata@agedcarequality.gov.au](mailto:complaintsdata@agedcarequality.gov.au) for complaints.

## 6. Information Exchange

### 6.1. Referrals from the Department to the Commission

The Department may refer information to the Commission which may indicate an issue with a provider's responsibilities under the *Aged Care Act 1997* and Rules, including matters that may impact on the delivery of care and services in accordance with the Accreditation Standards, the Home Care Common Standards, the NATSIFACP Quality Framework or the CHSP grant agreements (and the new Aged Care Quality Standards from 1 July 2019). Referrals from the Department will occur regarding home care and ACFI compliance investigations.

Referrals can be made at the state/territory level or at a national level.

In making referrals the Department and the Commission acknowledge that the Commission has a statutory responsibility to determine the course of action after considering the information in the referral.

#### 6.1.1 Types of Referrals

The Department may make three different referrals to the Commission. The referral types indicate the Department's assessment of the severity of the issue/s that may impact the delivery of care and services.

The three types of referrals are:

**Type 1:**        *Referral for Information* – to provide information to the Commission that may assist with intelligence to inform case management of providers and services, and support risk assessment, the complaint resolution approach or the planning and prioritising of regulatory activities in relation to the service/provider.

**Type 2:**        *Information indicating significant concern* – to alert the Commission to significant or serious issues/concerns which may require the Commission to undertake activities in relation to the service/provider.

**Type 3:**        *Request for a Review audit* – to request that the Commission conduct a review audit as identified issues/concerns appear to be of a nature and/or severity that warrants a comprehensive review be undertaken urgently.

Where a referral of information is made to the Commission and the Department also refers the information to another organisation, for example the police or a professional

registration body, the Department will inform the Commission within five working days of making the referral to that other organisation.

#### 6.1.2 Process for Making a Referral

A delegate of the Secretary can make a referral to the Commission. Refer to the current Instrument of Delegation for the Department under the *Aged Care Act 1997* to ensure the referring officer has appropriate delegation to make the referral.

If making a Type 3 referral the Department's state or territory delegate will place a courtesy call to the Commission advising that a referral is about to be made.

#### 6.1.3 The Commission's Consideration of Referrals

The Commission will acknowledge receipt of the referral and will advise the Department of planned action, including details about planned visits and when a visit will not be undertaken or has recently been completed.

If after a Type 3 referral has been made the Commission considers that a review audit may not be necessary, the Commission will contact the Department to discuss its reasons and provide written advice. The Department may take this information into account and decide to withdraw the referral.

Following a referral, the Commission will advise the Department of the outcome, including providing any decisions or reports to the Department.

#### 6.2. Referrals from the Commission to the Department

The Commission may refer an issue or provide information relevant to the Department's responsibilities. This may include but is not limited to:

- Where the Commissioner considers an issue more closely aligns with the Department's responsibilities
- Where it is appropriate for the Department to consider whether to initiate compliance action under the *Aged Care Act 1997*
- Where the Commissioner is aware that the Department has initiated action under Part 4.4 of the *Aged Care Act 1997* which relates to the issue; and
- Where an approved provider has failed to comply with directions.

##### 6.2.1 Process for making a referral

Referrals will be sent from the Commission to the relevant Assistant Secretary or nominee in the Department.

Referrals that may require urgent consideration by the Department will also be made by telephone to ensure that the Department is made aware of the referral.

##### 6.2.2 Format and Content of the Referral

Referrals from the Commission to the Department will include sufficient detail to allow the Department to form a view about the nature and severity of the issues identified and will be



accompanied by all relevant information collected by the Commission. This may include but is not limited to:

- How the information was obtained
- A summary of current relevant information about the provider/service including details of any notices related to an intention to issue, direction that may have been issued or any other action being undertaken by the Commission
- Advice about what, if any, information has been given to the service provider regarding the content of the referral
- Any privacy information required i.e. confidentiality of complainant; and
- Any other information that may assist the Department to decide on action.

Where the referral relates to possible non-compliance, the referral should include sufficient evidence to indicate why the Commission considers that there may be non-compliance with a providers responsibilities under the *Aged Care Act 1997* or with a grant/funding agreement.

Following the referral, further liaison may occur as necessary.

### 6.2.3 The Department's consideration of Referrals

On receipt of a referral from the Commission the Department will review the information and then determine an appropriate course of action including undertaking a regulatory or administrative pathway.

## 7. Exchange of Information from the Aged Care Quality and Safety Commission to the Department

### 7.1. Commission Reports and Decisions

The Commission will provide the Department with reports and decisions following quality assessment and monitoring activity. When requested, information will be provided relating to media or ministerial requests or further information relating to referrals made by the Commission.

### 7.2. Information about accreditation decisions

The Commission will advise the Department about decisions to accredit, not accredit, to vary the periods of accreditation, or to revoke accreditation as soon as possible after they are made.

The Commission will provide advice to the Department where a decision to accredit a residential aged care service is due to be made within two weeks of the expiry of the existing accreditation period. The Department and the Commission will liaise to avoid any lapse or delay in the payment of subsidy to the service.

7.3. Notification of non-compliance with the Accreditation Standards, the Home Care Standards or NATSIFACP Quality Framework (and the new Aged Care Quality Standards from 1 July 2019)

Where the Commission identifies a provider has failed to meet the Accreditation Standards, Home Care Common Standards or NATSIFACP Quality Framework or the Aged Care Quality Standards (from 1 July 2019), the Commission will advise the Department in writing and provide a copy of the report. The Commission will continue to keep the Department informed on the progress.

7.4. Departmental consideration of information for accreditation and non-compliance decisions

The Department will consider the information and determine appropriate compliance action to take, if required. The Department will communicate compliance activities with the Commission.

7.5. Process for Exchange of Information

The contact points for delivery of emails to the Department will be through:

- [aged.care.compliance@health.gov.au](mailto:aged.care.compliance@health.gov.au)
- [ComplianceEast@health.gov.au](mailto:ComplianceEast@health.gov.au)
- [ComplianceWest@health.gov.au](mailto:ComplianceWest@health.gov.au)
- [Compulsoryreporting@health.gov.au](mailto:Compulsoryreporting@health.gov.au)
- [Compliance.ACFI@health.gov.au](mailto:Compliance.ACFI@health.gov.au)

Emails sent to these addresses will include a courtesy copy to the relevant section officer(s) with telephone contact in cases of immediate risk.

## 8. Serious Risk and Early Release of Information

8.1. Early notification of issues

The Commission has discretion to release to the Department early information in cases where there is some urgency required to address a potential risk in relation to care recipients. The Department acknowledges that early information may not be the final decision made by the Commission.

The Commission will consider, in providing early information, the significance of the risk to care recipients and the quality of the evidence that can be supplied to support the Department's consideration and use of the information.

8.2. Notification of Serious Risk

Where a decision of serious risk has been made by the Commission, a copy of the decision and correspondence to the approved provider will be provided to the Department.

8.3. Format and content of Serious Risk Information

The serious risk decision will be supported by evidence where identified care recipients have been placed or may be placed at serious risk, and specify the areas of failure across the

service. The information in the decision will provide sufficient evidence and detail to enable the Department to determine whether to take regulatory action including a decision on immediate and severe risk.

To support the undertaking of its functions, the Department may request further information from the Commission including other evidence such as the approved provider's response to the initial consideration of serious risk.

#### 8.4. Department Actions following Serious Risk Notification

The Department will review the information supplied in relation to the serious risk notification and make a decision of whether there is immediate and severe risk to current and future care recipients and determine compliance action to take. The Department will advise the Commission of any regulatory actions and if sanctions have been imposed (including the details of any sanctions).

### 9. Visits to residential aged care and home care services

In order to minimise any disruption to visits to residential aged care services, home care services and NATSIFACP services, the Department and the Commission will take reasonable steps to avoid attending a service at the same time and will discuss any upcoming planned visits and try to schedule visits on different days.

Where the Department makes a decision to conduct an immediate visit to a specific residential aged care or home care service and the Department is aware the Commission is also visiting, it will notify the Commission of the intention to visit.

Both organisations will ensure that in their interactions the provider has a clear understanding of the respective role.

### 10. Information required for court or tribunal proceedings

If compliance action taken by the Department on the basis of information provided by the Commission is challenged in a court or tribunal, the Commission will make available documents relating to the aged care service and/or the provider's non-compliance when requested by the Department.

### 11. Consultation or discussion papers

If consultation or discussion papers require comments by both the Department and the Commission, both organisations will work together to provide a coordinated and consistent response or liaise to ensure separate responses are aligned with the objectives of the portfolio.

### 12. Disclosure of Information

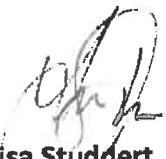
Referral, disclosure or sharing of protected information can be made verbally or in writing, a formal instrument of release or such document is not required. This requirement for protected information under Section 61(c) of the *Aged Care Quality and Safety Act 2018* have been incorporated into the Commissioners templates. However, provision of ad hoc data by the Department would need approval from the Aged Care Data Steward prior to

information being released. The contact email for such requests and approvals is [agedcarereporting@health.gov.au](mailto:agedcarereporting@health.gov.au). The provision of ad hoc data by the Commission would need approval from the relevant Director managing the request as per paragraph 5.7.

Information exchange between the Department and the Commission will also be consistent with applicable information-handling, secrecy, confidentiality and privacy laws or policies.

The Department and the Commission acknowledges and will comply with, their obligations under law in relation to the collection, recording, use or disclosure of personal information under this Schedule of the MoU.

### 13. Signatories



**Dr Lisa Studdert**  
Deputy Secretary  
Ageing and Aged Care Group  
Department of Health

Date: 8/4/19



**Ms Janet Anderson**  
Commissioner  
Aged Care Quality and Safety Commission

Date: 10.4.19