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<td>Assistance with Care and Housing for the Aged</td>
</tr>
<tr>
<td>ACFI</td>
<td>Aged Care Funding Instrument</td>
</tr>
<tr>
<td>AEST</td>
<td>Australian Eastern Standard Time</td>
</tr>
<tr>
<td>AHPRA</td>
<td>Australian Health Practitioner Regulation Agency</td>
</tr>
<tr>
<td>APPs</td>
<td>Australian Privacy Principles <em>(Privacy Act 1998)</em></td>
</tr>
<tr>
<td>APS</td>
<td>Australian Public Service</td>
</tr>
<tr>
<td>CHSP</td>
<td>Commonwealth Home Support Programme</td>
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<td>DRR</td>
<td>Detailed Resolution Report</td>
</tr>
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<td>DSS</td>
<td>Department of Social Services</td>
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<td>Day Therapy Centres</td>
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<td>GPO</td>
<td>General Post Office</td>
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<td>IEM</td>
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<td>IMS</td>
<td>Investigation Management System</td>
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<td>MPS</td>
<td>Multipurpose Service</td>
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<tr>
<td>NACRP</td>
<td>National Aged Care Regulatory Programme</td>
</tr>
<tr>
<td>NATSIFACP</td>
<td>National Aboriginal and Torres Strait Islander Flexible Aged Care Programme</td>
</tr>
<tr>
<td>NCCIMS</td>
<td>National Complaints and Compliance Information Management System</td>
</tr>
<tr>
<td>NFA</td>
<td>No Further Action</td>
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<tr>
<td>NIID</td>
<td>Notice of intention to issue directions</td>
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<tr>
<td>NIIDR</td>
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<td>NRCP</td>
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<td>Partnerships in Culturally Appropriate Care</td>
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<tr>
<td>PHU</td>
<td>Public Health Unit</td>
</tr>
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<td>PPE</td>
<td>Personal Protective Equipment</td>
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<td>RAD</td>
<td>Refundable Accommodation Deposit</td>
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<td>RARP</td>
<td>Risk Assessment and Resolution Plan</td>
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<td>ROACA</td>
<td>Report on the Operation of the Aged Care Act</td>
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### Glossary

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<td>Act (the)</td>
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<td>Aged Care Assessment Team (ACAT)</td>
<td>ACATs are teams of health professionals who can approve residential care, Home Care Packages and transition care. An ACAT assessor may include a doctor, nurse, social worker and/or other health professionals.</td>
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<td>Aged Care Funding Instrument (ACFI)</td>
<td>The instrument used to determine the level of care payments for residents in approved aged care facilities.</td>
</tr>
<tr>
<td>Aged Care Complaints Scheme (the Scheme)</td>
<td>The Aged Care Complaints Scheme resolves complaints about Australian Government subsidised aged care services (residential, community, flexible care and Commonwealth HACC services) through a range of resolution approaches.</td>
</tr>
<tr>
<td>Aged Care Quality Agency (Quality Agency)</td>
<td>An independent body that:</td>
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<td></td>
<td>• grants accreditation to service providers of residential aged care who are assessed by the Quality Agency as meeting the accreditation standards</td>
</tr>
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<td></td>
<td>• monitors compliance with the accreditation standards after the service provider has been granted accreditation</td>
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<td></td>
<td>• refers non-compliance with the accreditation standards to the department for compliance action, and</td>
</tr>
<tr>
<td></td>
<td>educates and assists service providers to deliver quality care and services.</td>
</tr>
<tr>
<td>Approved Provider</td>
<td>A person or body in respect of which an approval under Part 2.1 of the Act is in force, and, to the extent provided for in section 8-6, includes any State or Territory, authority of a State or Territory or local government authority. Approved providers might also be referred to as service providers.</td>
</tr>
<tr>
<td>Assistance with Care and Housing for the Aged (ACHA)</td>
<td>The ACHA Program helps eligible clients remain in the community. Eligible clients are financially disadvantaged older people who are homeless or have insecure accommodation and are at risk of becoming homeless.</td>
</tr>
<tr>
<td>Authorised officer</td>
<td>An employee of the Australian Government who has been appointed in writing by a delegate of the Secretary to be an authorised officer for the purposes of Part 6.4 of the Act.</td>
</tr>
<tr>
<td>Care recipient</td>
<td>A person approved under the Act to receive aged care who has been assessed by an Aged Care Assessment Team to receive Australian Government subsidised aged care services.</td>
</tr>
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<td>Client</td>
<td>A person receiving care and services under the Commonwealth Home Support Programme or the National Aboriginal and Torres Strait Islander Flexible Aged Care Programme.</td>
</tr>
<tr>
<td>Commonwealth HACC Program Manual</td>
<td>The Commonwealth HACC Program Manual (the Manual) sets out the operational requirements of the Program.</td>
</tr>
<tr>
<td>Commonwealth Home Support Programme (CHSP)</td>
<td>CHSP is an Australian Government initiative that provides a number of services funded across Australia to help older people that are not in sustainable housing or who are homeless.</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<tr>
<td><strong>Commonwealth Home Support Programme (CHSP) Programme Manual</strong></td>
<td>The CHSP Programme Manual 2015 sets out the operational and administrative requirements supporting the delivery and management of CHSP from 1 July 2015.</td>
</tr>
<tr>
<td><strong>Home care</strong></td>
<td>Care consisting of a package of care and services provided in a non-residential care setting.</td>
</tr>
<tr>
<td><strong>Complaint</strong></td>
<td>An expression of dissatisfaction with any aspect of a service provider’s responsibilities that requires the Scheme to facilitate the resolution of the complaint.</td>
</tr>
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<td><strong>Complainant</strong></td>
<td>A person who contacts the Aged Care Complaints Scheme and provides information or raises a concern about the care and/or services being provided to a care recipient receiving Australian Government subsidised aged care services.</td>
</tr>
<tr>
<td><strong>Complaints management principles</strong></td>
<td>The complaints management principles encompass the Scheme’s objectives, enablers and operational expectations.</td>
</tr>
<tr>
<td><strong>Complaints Principles 2014</strong> (the Complaints Principles)</td>
<td>The Complaints Principles set out the process for resolving complaints received by the Scheme and the review rights to the Aged Care Commissioner.</td>
</tr>
<tr>
<td><strong>Scheme officer (officer)</strong></td>
<td>Officers employed by the Aged Care Complaints Scheme to resolve complaints about Australian Government subsidised aged care services (residential, community and flexible care) through a range of resolution approaches.</td>
</tr>
<tr>
<td><strong>Conciliation</strong></td>
<td>A process where a complaints resolution officer assists the complainant and service provider to reach mutually agreeable outcomes to resolve the issues in complaint.</td>
</tr>
<tr>
<td><strong>Day Therapy Centres (DTC)</strong></td>
<td>Day Therapy Centres (DTC) offer physiotherapy, occupational and speech therapy, podiatry and other therapy services to older people in a community setting. Day Therapy Centres are funded under grants and administered through contractual arrangements between the Australian Government and the Day Therapy Centre.</td>
</tr>
<tr>
<td><strong>Delegate</strong></td>
<td>A departmental officer who is in a position to which the Secretary has delegated powers under the Act.</td>
</tr>
<tr>
<td><strong>Department (the)</strong></td>
<td>The Department of Social Services.</td>
</tr>
<tr>
<td><strong>Detailed Resolution Report (DRR)</strong></td>
<td>DRR is used to record: issues of the case, a summary of the resolution process adopted, the outcome recommended in relation to each issue and the rationale for recommending the proposed outcome in relation to</td>
</tr>
<tr>
<td><strong>Direction(s)</strong></td>
<td>Directions may be issued to a service provider where the Secretary is satisfied that the service provider is not meeting its responsibilities under the Act. The direction(s) will describe the actions to be taken by the service provider (and the timeframes within which those actions must be taken) in order to comply with the Act and the Complaints Principles 2014. If the service provider fails to comply with these Directions, compliance action may be taken against the service provider under Part 4.4 of the Act (or under the Funding Agreement for Commonwealth HACC)</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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<tr>
<td>Early resolution</td>
<td>Complaints resolution officers may assist complainants over the telephone to resolve their concerns with the service provider without the Scheme’s ongoing formal involvement. The assistance may include providing routine information and discussing the complainant’s concerns with the service provider. The decision that a complaint be resolved through early resolution is a decision for the complainant.</td>
</tr>
<tr>
<td>Flexible care</td>
<td>Care provided in a residential or community setting through an aged care service that meets the needs of care recipients in alternative ways to the care provided through ‘residential care’ and ‘home care’ (s49-3 of the Act); this includes services provided through Transition Care, Innovative Care or Multi-purpose services (MPS)</td>
</tr>
<tr>
<td>Home and Community Care (HACC)</td>
<td>HACC are basic maintenance, support and care services to assist people to remain in the community. The services focus on supporting different areas of need that an individual may have due to a limitation in their ability to undertake tasks of daily living.</td>
</tr>
<tr>
<td>Home Care Standards</td>
<td>The Home Care Standards (the Standards) are a guide developed to assist service providers to prepare and participate in a quality review ensuring quality in home care.</td>
</tr>
<tr>
<td>Industry group or industry body</td>
<td>A group of businesses with similar interests often represented by a national industry association or peak body.</td>
</tr>
<tr>
<td>Intake Escalation Matrix (IEM)</td>
<td>The IEM is a risk rating tool to determine the severity of the case</td>
</tr>
</tbody>
</table>
| Investigation                             | A resolution approach in which the Scheme may gather oral and/or physical evidence from a range of relevant sources including:  
  - the complainant  
  - the service provider  
  - anyone else who can provide relevant information, and  
  - site visits.  
An investigation approach aims to assess if the service provider has met its responsibilities.                                                                                                                      |
| Key Personnel                             | The Act defines key personnel as  
  - a member of the group of persons who is responsible for the executive decisions of the entity at that time;  
  - any other person who has authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the entity at that time;  
  - if, at that time, the entity conducts an *aged care service:  
    - any person who is responsible for the nursing services provided by the service (must hold a recognised qualification in nursing); and  
    - any person who is responsible for the day-to-day operations of the service;  
  - whether or not the person is employed by the entity;  
  - if, at that time, the entity proposes to conduct an aged care service:  
    - any person who is likely to be responsible for the nursing |
### Term | Definition
---|---
services to be provided by the service (must hold a recognised qualification in nursing); and
  * any person who is likely to be responsible for the day-to-day operations of the service;
  * whether or not the person is employed by the entity.
Manager | A Scheme officer who has a supervisory role.
Mediation | A process where a mediator independent of the Scheme assists the complainant and service provider to resolve the issues in complaint.
Multipurpose Service (MPS) | The MPS Program is a joint initiative of the Australian Government and state/territory governments, which aims to deliver flexible and integrated health and aged care facilities for small rural and remote communities. A MPS is generally established when the local population is not large enough to support separate services, such as a hospital, a residential aged care facilities, home and community care services and where there is poor access to essential health and aged care facilities.
National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP) | NATSIFACP provides quality, flexible and culturally appropriate aged care to older Aboriginal and Torres Strait Islander people close to their home and community.
National Aged Care Advocacy Program (NACAP) | NACAP is a national program funded by the Australian Government under the Act. It promotes the rights of people receiving Australian Government funded aged care services.
National Aged Care Regulatory Programme (NACRP) | NACRP is a national programme within DSS that is committed to promoting quality of care through ensuring providers meet their statutory obligations and concerns are quickly and effectively resolved. A key responsibility of NACRP is the administration of the Scheme.
National Respite for Carers Program (NRCP) | The NRCP provides funding to assist carers with information, respite care and other support.
National Relay Service (NRS) | The NRS is a service which enables officers to communicate with speech and hearing impaired people.
Natural justice | See ‘procedural fairness’.
Notice of intention to issue directions (NIID) | A notice of intention to issue directions sets out the Scheme’s preliminary findings on any issues of concern identified by the Scheme through its resolution process. The notice provides a service provider with the opportunity to respond to the Scheme’s concerns by identifying how the service provider has, or will, address the issues identified.
Notice of non-compliance (NNC) | Notices of non-compliance are issued by the department when a service provider has not complied with its responsibilities in providing required care and services but where this has not caused an immediate and severe risk to care recipients’ health, safety or wellbeing. The NNC issued to a service provider makes clear what problems need to be addressed and by when. The service provider is expected to meet with care recipients, tell them about the identified problems and explain what it will be doing to fix them.
Officer | A departmental officer working in the Scheme, also known as a complaints resolution officer, manager or delegate.
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<tr>
<td>'Own initiative' concern</td>
<td>A resolution process commenced by the Secretary based on information received from a source other than a complainant. Also called a 'department initiated' resolution process. An own initiative concern is where the Scheme, independent of a complainant, decides to initiate a resolution process to assess whether a service provider is meeting its responsibilities under the Act.</td>
</tr>
<tr>
<td>Partnerships in Culturally Appropriate Care (PICAC)</td>
<td>The PICAC program aims to equip aged care providers to deliver culturally appropriate care to older people from culturally and linguistically diverse communities</td>
</tr>
<tr>
<td>Procedural fairness</td>
<td>Procedural fairness is the process followed by decision-makers to ensure decisions are fair by providing all interested parties to the complaint: • the right to be heard • the right to be treated without bias • the right to be informed of and respond to allegations • the right to information regarding the status of the complaint.</td>
</tr>
<tr>
<td>Public Health Unit (PHU)</td>
<td>Public health units focus on protecting health; preventing disease, illness and injury; and promoting health and wellbeing at a population or whole of community level.</td>
</tr>
<tr>
<td>Reconsideration delegate</td>
<td>The delegate responsible for deciding whether to accept the ACC’s recommendations and to undertake a new resolution process, if applicable.</td>
</tr>
<tr>
<td>Referral</td>
<td>A process where specific issues raised in a complaint are referred to another organisation or agency for consideration and/or action.</td>
</tr>
<tr>
<td>Refundable Accommodation Deposit (RAD)</td>
<td>A refundable accommodation deposit works like an interest-free loan to an aged care home. The balance of the deposit is refunded when you leave the aged care home less any amounts you have agreed to have deducted.</td>
</tr>
<tr>
<td>Residential care</td>
<td>Defined under section 41-3 of the Act as personal or nursing care, or both personal and nursing care, that:</td>
</tr>
<tr>
<td></td>
<td>(a) is provided to a person in a residential care facility in which the person is also provided with accommodation that includes:</td>
</tr>
<tr>
<td></td>
<td>(i) appropriate staffing to meet the nursing and personal care needs of the person</td>
</tr>
<tr>
<td></td>
<td>(ii) meals and cleaning services, and</td>
</tr>
<tr>
<td></td>
<td>(iii) furnishings, furniture and equipment for the provision of that care and accommodation, and</td>
</tr>
<tr>
<td></td>
<td>(iv) meets any other requirements specified in the Residential Care Subsidy Principles.</td>
</tr>
<tr>
<td>Risk Assessment and Resolution Plan (RARP)</td>
<td>The RARP is a tool designed to establish the risk rating of the case and to provide a plan of resolution to the delegate.</td>
</tr>
<tr>
<td>Sanctions</td>
<td>A penalty imposed by the department on operators of aged care services in cases of serious non-compliance with the provisions of the Act. The decision to impose sanctions is not taken lightly and includes consideration of issues such as:</td>
</tr>
<tr>
<td></td>
<td>• whether non-compliance is minor or serious</td>
</tr>
<tr>
<td></td>
<td>• whether it has occurred before, and</td>
</tr>
<tr>
<td>Term</td>
<td>Definition</td>
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</tr>
<tr>
<td></td>
<td>• whether it threatens the health, welfare or interests of the care recipients.</td>
</tr>
<tr>
<td></td>
<td>Different sanctions may be imposed depending on the circumstances of the non-compliance, but they may include revocation of approved provider status, loss of Australian Government subsidies for new care recipients or revocation of allocated places (beds).</td>
</tr>
<tr>
<td>Scheme Service Commitment</td>
<td>The Scheme’s Service Commitment (the Service Commitment) sets out the Scheme’s commitment to working with care recipients, their families, service providers, the public and staff.</td>
</tr>
<tr>
<td>Secretary (the)</td>
<td>Secretary of the Department of Social Services.</td>
</tr>
<tr>
<td>Service provider</td>
<td>An organisation funded to provide aged care services to older people. A service provider might also be referred to as an approved provider where relevant.</td>
</tr>
<tr>
<td>Service provider resolution</td>
<td>A process which the Scheme refers a complaint to a service provider to resolve. The Scheme requires the service provider to report back to the Scheme on what action it has taken to resolve the complaint.</td>
</tr>
<tr>
<td>Site visit</td>
<td>A visit to a service or residence by authorised officers. It includes officers meeting outside of a Scheme office with complainants, service providers and any party to a complaint.</td>
</tr>
<tr>
<td>User Rights Principles 1997 (the User Rights Principles)</td>
<td>The User Rights Principles under the Act contains the Charter of rights and responsibilities Part 8, Schedule 2 which gives each service user information to assist them to make service choices and gives them details of their rights (and responsibilities) to be consulted and respected</td>
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Chapter 1: Governance Framework

This chapter provides information on how the Aged Care Complaints Scheme (the Scheme) works to ensure the provision of quality in aged care.

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<td>The Complaints Principles 2014</td>
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<td>Other legislation which may be relevant to the Scheme</td>
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Note: For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement refer to Chapter 10 of these Guidelines.
The Aged Care Complaints Scheme

1.1 Overview of the Scheme

The Scheme commenced on 1 May 2007 and was established through changes to the Aged Care Act 1997 (the Act) and the introduction of regulations under the Act. The Scheme responds to complaints and information regarding care and services provided by Australian Government subsidised aged care services.

On 1 September 2011, the legislation was amended to strengthen the Scheme with the introduction of the Complaints Principles 2011. The Complaints Principles were further amended on 1 July 2014 and are now known as the Complaints Principles 2014 (the Complaints Principles). These changes provided additional complaints resolution options, including conciliation, early and service provider resolution, mediation as well as investigation, allowing a stronger focus on the resolution of complaints. Such changes also strengthened examination and reconsideration rights for parties to a complaint.

Note: The Scheme was previously named the ‘Complaints Investigation Scheme’.

The Scheme is managed by the Access, Quality and Compliance Group (AQCG) within the Department of Social Services (the department). The Scheme operates within a robust regulatory and legislative framework, details of which can be found under Regulatory Framework and Legislative Framework later in this chapter.

1.2 Scheme objectives

The Scheme aims to:

• protect the safety, health and wellbeing of recipients of Australian Government subsidised aged care services
• resolve complaints in a timely and proportionate manner to provide positive outcomes for care recipients
• educate complainants so they are empowered to make informed decisions, and
• assist service providers to understand their responsibilities and identify opportunities for continuous improvement.

1.3 Role of the Scheme

The Scheme’s role is to:

• examine information provided to the Scheme
• resolve complaints regarding the care and services provided to recipients of aged care services in the interest of the recipient
• take action, where necessary, to protect the safety, health and wellbeing of care recipients, and
• refer information, where necessary, to internal and external organisations to assist them in performing their regulatory functions.

Where Scheme officers (officers) identify concerns that indicate a service provider’s systems and processes are inadequate, the Scheme can refer its concerns to the appropriate area within the department or external body.
1.4 Scheme Service Commitment

The Scheme’s Service Commitment (the Service Commitment) sets out the Scheme’s commitment to working with care recipients, their families, service providers, the public and staff. Officers will:

- provide clear, consistent and timely information
- make evidence-based decisions that provide equal opportunity for parties to have a say
- be thorough, robust and accountable in their work
- engage with empathy and understanding
- be fair, ethical and transparent
- ensure accessibility
- engage and work collaboratively in the resolution of complaints, and
- promote continuous quality improvement.

The Service Commitment also sets out the Scheme’s expectations of complainants and service providers in the management of complaints.

1.5 How the Scheme operates

The Scheme operates nationally. Complaints regarding aged care and services are generally received and managed within the state or territory where the care is being delivered.

Overall programme management is undertaken by the National Aged Care Regulatory Programme (NACRP) within the department as outlined in Figure 1 The Scheme’s governance structure.

1.6 Programmes within and outside the Scheme’s jurisdiction

The Australian Government funds various aged care programmes under legislative or grant funding arrangements. Programmes that are within the Scheme’s jurisdiction include:

- Residential aged care services, including permanent care and respite care
- Home Care Packages delivered on a Consumer Directed Care basis
- Flexible Care where a person is receiving ‘residential care’ or ‘home care’; this includes services provided through Transition Care, Innovative Care or Multi-purpose services (MPS)
- Commonwealth Home Support Programme (CHSP)
- National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP)

Programmes that are outside the Scheme’s jurisdiction include:

- Veterans’ Home Care Program
- Partners in Culturally Appropriate Care (PICAC)
- Home and Community Care (HACC) delivered in Victoria and Western Australia.
1.7 **Scheme officers**

Officers come from diverse backgrounds including registered nurses, allied health professionals, police officers, lawyers, counsellors, mediators and administrators.

**Note:** The term 'officer' includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.

On joining the Scheme all officers must:

- complete mandatory training
- obtain a current police certificate, and
- declare any conflict of interest.

Officers are public servants and are required to uphold the Australian Public Service (APS) values in accordance with the APS Code of Conduct.
For further information on the responsibilities of Australian public servants, refer to the Australian Public Service Commission’s website.

1.8 Authorised officers and their powers under the *Aged Care Act 1997*

The Secretary of the department has the powers and functions to make decisions under the Act.

Section 96-2(1) of the Act provides that the Secretary may, in writing, delegate to an officer of the department or to the Aged Care Commissioner (ACC) all or any of the powers of the Secretary under the Act, the regulations or any principles made under Section 96.1.

Powers that authorised officers have include:

- monitoring powers
- the power to enter premises with an occupier’s consent
- the power to ask people to answer questions and to provide requested documents, and
- the power to ask the occupier of premises to assist.

**Note:** All officers should ensure that they are familiar with their obligations and powers under the Act. Chapter 6, Part 6.4 of the Act outlines the powers of authorised officers.

More detailed information on the powers of authorised officers is available at the Comlaw website.

1.9 How the Scheme handles information privacy requirements

The Scheme’s Notice of Collection and the department’s Privacy Policy sets out how the Scheme and department comply with the Australian Privacy Principles (APPs) set out in the *Privacy Act 1988* (the Privacy Act).

1.10 How the Scheme handles unreasonable complainant conduct

The Scheme may place limits on a complainant’s contact with the Scheme. The circumstances in which the Scheme may do this are described in the Policy on Preventing and Managing Unreasonable Complainant Conduct available on the DSS website.

1.11 Scheme performance reporting

The department has made a commitment to report publicly about the work of the Scheme. This is achieved through monitoring and measuring the Scheme’s performance against a set of performance indicators and satisfaction indices.

Scheme performance will be reported in the annual ‘Report on the Operation of the *Aged Care Act 1997*’ (ROACA), the annual ‘Report on Government Services’ (ROGS) and the department’s annual report and quarterly performance reports.

These reports on aged care can be accessed on the department’s website.

‘Report on the Operation of the *Aged Care Act 1997*’

ROACA is a useful resource providing an overview of the operation of the Act over each financial year. ROACA includes additional information to aid understanding of aged care programmes and policies.
Regulatory Framework

1.12 Overview of the regulatory framework for quality aged care services

The Scheme is part of a regulatory framework designed to promote the provision of quality aged care services to people receiving Australian Government subsidised residential or home based aged care services.

The regulatory framework in which the Scheme operates governs:

- who may provide Australian Government subsidised aged care services
- the type of care and services that must be provided
- the standard of care and services that must be provided, and
- the rights and responsibilities of aged care recipients and providers.

Government areas operating under the regulatory framework for quality aged care services

The regulatory framework applies to the operations of and interactive relationships between the following government areas that monitor the quality of aged care services:

- the Scheme through the receipt, assessment and resolution of complaints
- the Australian Aged Care Quality Agency (Quality Agency) which assesses the quality of residential care and home care against service standards
- the department where prudential and compliance areas regulate the corporate and financial responsibilities of approved providers, monitors service provider compliance and may take the appropriate compliance action against approved provider

The interactive relationships between the government areas operating under the regulatory framework ensure that the provision of quality aged care services is monitored from an individual care recipient through to issues related to systems and processes, and assist each area in performing its regulatory functions.

The department areas managing prudential and approved provider regulation regulate specific elements of the Act including:

- monitoring service provider compliance
- validating claims under the Aged Care Funding Instrument (ACFI)
- applications for approved provider status
- applications for the transfer of places, and
- the management of accommodation bonds and associated responsibilities.

Complaints related to the above are directly referred to these regulatory areas.

1.13 The department’s regulatory response and the complaints and compliance frameworks

The department’s regulatory response is underpinned by the interaction between the complaints and compliance frameworks. Figure 2 compares the components relevant to the complaints and compliance regulatory approach, complaint resolution approach, complaint process outcome and review mechanisms.
1.14 Complaints framework

The Scheme focuses on complaint resolution and promotion of quality improvement and enforcement where required.

The complaints framework:

- provides for the protection of care recipients through the resolution of complaints in a manner that is consistent with good practice complaints management.
- aims to resolve the issue/s in a complaint in a manner that will achieve the most timely, proportionate and appropriate outcome for the care recipient.

The Scheme’s resolution approaches range from supporting the complainant to resolve their concerns with the service provider, through to officers investigating the complaint. Where necessary, the Scheme has the power to direct a service provider to demonstrate that it is meeting its responsibilities under the Act. The Scheme will refer matters for compliance action where there are serious concerns regarding the safety, health and wellbeing of care recipients.

1.15 Compliance framework

Where a service provider is an approved provider (as defined in the Act) of Australian Government subsidised aged care, it is governed by the Act and the Aged Care Principles made under the Act.

This legislation sets out approved provider responsibilities regarding the quality of care provided, user rights for recipients of aged care, accountability for the aged care that is
provided and the allocation of aged care places. In addition, a residential aged care service must be accredited in order for the approved provider to receive Australian Government subsidies under the Act.

Both the Quality Agency and the department have a role in monitoring aged care services. The Quality Agency is responsible for the accreditation of residential care services and conducting quality reviews of home care services. The Quality Agency advises the department of any aged care services that do not meet the Standards. While the Quality Agency only looks at the Standards for aged care providers, the department monitors approved providers for compliance of their responsibilities under the Act. The department may take compliance action if a provider fails to meet its responsibilities under the Act or the Comprehensive Grant Agreement. Compliance action may include imposing sanctions or, in the case of an aged care service provider under a Comprehensive Grant Agreement, compliance action under the agreement including termination of a contract.

1.16 The Australian Aged Care Quality Agency (Quality Agency)

The Quality Agency is a statutory agency established under the Australian Aged Care Quality Agency Act 2013.

On 1 January 2014, the Quality Agency replaced the Aged Care Standards and Accreditation Agency Ltd and assumed sole responsibility for the accreditation, monitoring and quality assurance of Australian Government subsidised aged care services. This includes responsibility for residential aged care providers and from 1 July 2014 aged care services in the community through the Quality Reporting Program. On 1 August 2014, the Quality Agency also assumed responsibility for the administrative functions related to quality monitoring against the NATSIFACP Quality Framework.

The role and functions of the Quality Agency are set out under the Quality Agency Principles 2013 and include:

• quality assurance across the aged care sector
• promoting high quality care, innovation in quality management and continuous improvement amongst approved providers of aged care, and
• supporting and promoting quality and innovation in aged care service delivery through a comprehensive industry education programme.

As part of its quality assurance role the Quality Agency is responsible for:

• managing the accreditation process for residential care services in accordance with the Quality Agency Principles 2013 and the Accreditation Standards detailed in the Quality of Care Principles 2014 made under the Act,
• ongoing monitoring of residential aged care services against the Accreditation Standards
• monitoring of Home Care, the CHSP (only Sub-Programmes under which direct care is delivered to clients) against the Home Care Standards, and
• monitoring against the NATSIFACP Quality Framework.

The Quality Agency does not have a role in examining individual complaints; rather it ensures there are systems and processes in place that provide quality care delivery to
individuals whether those services are delivered through a residential aged care service or in the person's own home.

More detailed information is available on the [Quality Agency's website](#).

**Communication between the department and the Quality Agency**

There are many instances where information about aged care services and/or approved providers may need to be shared between the department and the Quality Agency.

If, in the course of dealing with a complaint, the Scheme identifies matters that may indicate an issue of a systemic nature (that may affect some or all care recipients of a service), these can be referred to the Quality Agency for consideration and action. In these instances the Department will continue to deal with aspects of the complaint that relate to individual care recipients, while the Quality Agency may examine the service’s performance against the relevant standards. Information on these Standards is available on the [Quality Agency's website](#).

Other reasons for exchanging information include, but are not limited to:

- informing risk assessments by the department and the Quality Agency and
- referring the identification of serious risk and/or immediate and severe risk in aged care services to assist the department with its compliance role.

Communication between the department and the Quality Agency occurs at the state/territory level and national level. Communication may take the form of formal referrals, routine data exchange or regular meetings, teleconferences and ad hoc contacts.

Information must be released by the Scheme in accordance with the Act, the Australian Privacy Principles and the department’s own policies and procedures.

1.17 **Internal and external review rights**

As parties to a complaint, the complainant and service provider have both internal and external review or examination and reconsideration rights.

**Internal examination and reconsideration rights**

At any time throughout the complaints management process, the complainant and approved provider can raise concerns about the process and these will be taken into account by the Scheme.

In addition, once a decision has been made, the parties involved in the complaint can ask for an examination and reconsideration to be carried out.

**External examination and reconsideration rights**

If either the complainant or approved provider is dissatisfied with the Scheme’s processes and/or decisions they can request that the Aged Care Commissioner (ACC) review these processes and/or decisions regarding complaints made about services covered under the Act.

For further information on review rights refer to Chapter 8: Complaints Review Mechanisms.
1.18 Aged Care Commissioner

The ACC is a statutorily appointed review body. The ACC’s functions are set out in the Act and the Aged Care Principles. The ACC is able to review the Scheme’s processes and decisions in relation to complaints about approved providers under the Act. The Act also gives the ACC the power to examine particular matters on their own initiative.

More detailed information on how the ACC performs its role is available on the ACC’s website.

1.19 Commonwealth Ombudsman

The Commonwealth Ombudsman (the Ombudsman) can also examine complaints about the Scheme’s handling of a complaint. The Ombudsman safeguards the community in its dealings with Australian Government agencies. The Ombudsman’s office handles complaints about process, conducts investigations, performs audits and inspections, encourages good administration and carries out specialist oversight tasks. If the Ombudsman considers that there has been defective administration, he or she can recommend that corrective action be taken.

More detailed information on how the Ombudsman’s office performs its role is available on the Ombudsman’s website.

Legislative Framework

1.20 Overview of the Aged Care Act 1997

The objectives of the Act include:

- promoting diverse, flexible, responsive high quality of care and accommodation for the recipients of aged care services which meets their individual needs
- protecting the safety, health and wellbeing of recipients of aged care services, and
- helping those care recipients to enjoy the same rights as all other people in Australia.

To achieve its objectives the Act sets out approved provider responsibilities in relation to:

- quality of care
- user rights if an approved provider delivers residential, home, or flexible care
- complaints resolution mechanisms
- fees and charges
- protection of personal information
- accountability
- responsibilities relating to the basic suitability of key personnel, and
- alleged and suspected assaults.

Note: The Aged Care (Transitional Provisions) Act 1997 applies to continuing care recipients who entered a residential aged care service before 1 July 2014 and who continue to be provided with residential care under the fees and charges provisions of this legislation.
1.21 Aged Care Principles

Section 96-1 of the Act enables the Minister to make Principles that provide for matters that are:

- required or permitted under the Act, or
- necessary or convenient to carry out or give effect to a part or section of the Act.

The Principles made by the Minister are published as the Aged Care Principles. They may be amended at any time. They cover various aspects of aged care provision including user rights, recordkeeping, quality of care and the accountability of approved providers.

**Note:** The Aged Care (Transitional Provisions) Principles 2014 apply to continuing care recipients who entered a residential aged care service before 1 July 2014 and continue to be provided with residential care under the Aged Care (Transitional Provisions) Act 1997.

For residential care providers, the Act and Aged Care Principles (and Transitional Provisions versions) include additional requirements related to:

- prudential regulation of the Refundable Accommodation Deposit (RAD) or accommodation bonds held by service providers, and
- compulsory reporting of a) alleged assaults against care recipients, and b) care recipients who are missing without explanation.

**Prudential Regulation**

Information on prudential regulation for aged care providers is available on the department's website.

**Compulsory Reporting**

Information on the compulsory reporting requirements for residential care providers is available on the department's website.

**Note:** Providers no longer need to apply to the department for building certification in respect of new services or undergo a review of certification for existing services. The repeal of building certification requirements for residential care providers took effect from 17 October 2014.

1.22 The Complaints Principles 2014

The Complaints Principles set out both the process for resolving complaints received by the Scheme and examination and reconsideration rights. Information on the Complaints Principles is available at the Comlaw website.

1.23 Other legislation which may be relevant to the Scheme

Officers need to be aware of other legislation which may be relevant to their work and the Scheme. A list can be found in Topic 3.11 Further information for Scheme officers to be aware of.
Chapter 2: Complaints Management Process

This chapter sets out the complaints management process underlying the Scheme.

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Note: For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement refer to Chapter 10 of these Guidelines.

Note: Reference to an 'officer' includes both an officer and a manager. A 'delegate' refers to an individual with a delegated authority.

Complaints management phases

2.1 Purpose of the complaints management phases

The complaints management process comprises four phases:

- Intake
- Detailed Assessment
- Resolution
- Outcome

During the intake phase officers clarify the issues, gather information, confirm whether the complaint is within the scope of the Scheme and escalate the complaint where necessary. Intake also provides for the early resolution of complaints through the provision of information and/or informal assistance.

When a complaint cannot be resolved during the intake phase using early resolution, it will be workflowed for further assessment. During the detailed assessment phase the initial risk assessment and resolution plan (RARP) may be developed.

During the resolution phase officers work with all parties involved to resolve the concerns raised.

During the outcome phase feedback is provided to all relevant parties to the complaint on the resolution outcome and the complaint is finalised.

Note: The complaints management process does not seek to direct how each phase may be operationalised in each network office. The decision as to who completes each phase of the complaints management process is a decision for each network office.
Figure 3. Complaints management process flow chart

**INITIAL CONTACT**
- Mail
- Phone
- Computer

**INTAKE PHASE**
During this phase officers:
- receive, provide and classify information
- finalise routine out-of-scope information
- undertake a preliminary risk assessment to inform escalation to a manager
- support the early resolution of complaints.

**DETAILED ASSESSMENT PHASE**
During this phase officers:
- collect additional information to assess risk and resolve the complaint
- assess risk and plan the resolution of the complaint
- support the early resolution of complaints, and
- consider whether there are grounds for no further action.

**RESOLUTION PHASE**
During this phase the Complainant commences reviewing and applying the resolution plan developed during the assessment phase.

**Resolution**
The resolution approach(es) are determined following an assessment of how to achieve the most timely, proportionate and positive resolution of the complaint for the care recipient.

**OUTCOME PHASE**
During this phase the resolution outcome is decided, the complaint is finalised and feedback is provided to the parties of the complaint. Where appropriate and beneficial, the feedback may take the form of a post-resolution conference.

**NO FURTHER ACTION (NFA)**
The Scheme decides to NFA on grounds listed in section 7 or 8 of the Complaints Principles 2014.

**RESOLVED**
- Approved provider
- The complaint is resolved.

**ADRESSED**
The Scheme is satisfied the approved provider has addressed the issue/s in the complaint.

**DIRECTIONS**
The Scheme directs the approved provider to demonstrate how it is meeting its responsibilities.

**COMPLIANCE ACTION TAKEN**
The Department has taken compliance action under Part 4.4 of the Act.

*Decision to finalise the complaint and the Scheme’s processes are examinable by the Aged Care Commissioner.*
2.2 Intake phase

The intake phase is the first phase in the complaints management process and where the provision of information and early resolution of complaints usually occur.

The key activities undertaken during the intake phase include:

- receiving information
- classifying the information
- collecting and providing information
- finalising in-scope and out-of-scope inquiries
- undertaking a preliminary risk assessment and escalating complaints
- supporting the early resolution of complaints where appropriate
- acknowledging receipt of the complaint and workflow the complaint for more detailed assessment, and
- making appropriate referrals to other agencies.

For additional detail about the intake phase refer to Chapter 4.

2.3 Detailed assessment phase

When a complaint cannot be resolved during the intake phase it will enter the detailed assessment phase that is undertaken by an officer with the oversight of a manager or panel of managers.

The key activities undertaken in the detailed assessment phase include:

- providing, gathering and reviewing additional information to assist with the risk assessment and resolution planning of the complaint
- using the additional information and risk rating to inform whether:
  - further support should be provided to facilitate the early resolution of the complaint during the detailed assessment phase
  - no further action should be taken on the basis that one of the statutory grounds in section 8 of the Complaints Principles 2014 applies
- where it is decided that the complaint should be referred to the resolution phase, the manager/s recommending a resolution approach, for example: conciliation, service provider resolution, investigation, and
- ongoing communication with the complainant about the progress and/or planned management of a complaint and, if appropriate, with the service provider, and sending written correspondence to the complainant confirming the issues in the complaint that the Scheme will be referring for resolution.

For additional detail about the detailed assessment phase refer to Chapter 5.

2.4 Resolution phase

In the resolution phase a manager decides on the appropriate resolution approach considering:
• the resolution approach recommended during the detailed assessment phase, and
• any new and relevant information obtained from the complainant after the detailed assessment phase.

Once the resolution plan is decided by the manager, officers should commence applying the agreed resolution approach within the timeframe decided by the manager.

The key activities undertaken during the resolution phase include:

• working with the parties to the complaint (and the care recipient, where appropriate) to achieve timely resolution and positive outcomes for individual care recipients (where possible)
• when new and relevant information is received, reassessing the RARP
• where appropriate, referring information relating to the complaint to another organisation or other areas within the department, and
• recommending the appropriate resolution outcome based on the resolution process.

For additional detail about the resolution phase refer to Chapter 6.

2.5 Outcome phase

The outcome phase is the point where the complaints resolution process ends and the delegate decides the grounds on which the complaint will be finalised.

The key activities undertaken in the outcome phase include:

• determining the basis on which an issue will be resolved
• providing feedback to the parties to the complaint of the process, the outcome and their review rights, and
• when direction/s have been issued, monitoring and assessing whether the approved provider has met the direction/s.

For additional detail about the outcome phase refer to Chapter 7.
Chapter 3: Complaints Management Principles

This chapter sets out the complaints management principles which guide the handling of complaints by the Scheme.

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Note: This chapter should be read in conjunction with Chapters 4 to 10 of these Guidelines.

Note: Reference to an 'officer' includes both an officer and a manager. A 'delegate' refers to an individual with a delegated authority.

Effectively handling complaints

3.1 Purpose of the complaints management principles

The complaints management principles consist of the Scheme’s objectives, the fundamentals of good complaints handling and operational expectations which assist officers and managers to effectively handle complaints.

Application of the complaints management principles requires practical judgment by officers to ensure consistency in handling complaints. While the components of the complaints management principles seek to complement each other, there may be tensions between them. No component should be followed to a point where there is direct conflict with another component. For example, timely resolution should not be pursued if it conflicts with resolution that will achieve the most positive outcome for the care recipient.

3.2 Scheme objectives

In managing complaints and other information received by the Scheme, officers need to satisfy the Scheme objectives:

- Protect the safety, health and wellbeing of recipients of aged care services
- Resolve complaints in a way that achieves timely resolution and positive outcomes for individual care recipients
- Educate complainants so they are empowered to make informed decisions, and
- Assist service providers to understand their responsibilities and identify opportunities for continuous improvement.

### 3.3 Fundamentals of complaints handling

Fundamentals of effective complaints handling underpin and promote good complaints handling. The Scheme’s complaints handling process is underpinned by six fundamentals which must be observed by officers:

- **Accessibility** requires officers to be aware of the diverse and special access needs of the Australian community and reduce the barriers for people to access the Scheme. This is achieved by being sensitive and responsive to those needs, including physical, mental, age, gender or sexual identity, cultural, ethnic, religious, technological and/or geographic needs.

- **Fairness** requires officers to be impartial, objective and transparent and, where appropriate, maintain confidentiality in their dealings with all parties to a complaint. This ensures the parties to a complaint are kept informed and are provided with the opportunity to participate in the complaint resolution process.

- **Responsiveness** requires officers to communicate with the parties to a complaint in a way that is timely, courteous and tailored to the needs of all parties. This includes acknowledgement, escalation and resolution of all complaints in an effective and proportionate manner, verifying the expectations of the complainant and responding professionally to unreasonable complainant behaviour.

- **Efficiency** requires officers to manage complaints in a way that will achieve the best outcome for care recipients in the most proportionate, timely and appropriate way. This includes monitoring the progress of complaints; ensuring complaints are progressed and resolved within reasonable timeframes; and reviewing complaint handling to identify opportunities for continuous improvement.

- **Sound judgment** requires officers to seek and make objective, reasonable decisions based on all available and relevant information obtained during complaint handling. Officers will also critically think through issues, escalate where necessary and ensure their decision-making is consistent with the broader objectives and principles underpinning the complaints management framework.

- **Accountability** requires officers to ensure their decisions and dealings with complainants, care recipients, service providers and other parties are consistent with the accountability framework within which they operate and that they meet their statutory and reporting obligations, including appropriate information handling.
3.4 Operational expectations

Operational expectations outline how Scheme officers will demonstrate applying the fundamentals of good complaints handling. It is important that officers understand that the operational expectations are not an exhaustive list and therefore practical judgement must be applied when interpreting and applying these in the handling of a complaint.

Demonstrating good complaint handling

3.5 Operational expectations - Demonstrating accessibility

The following operational expectations outline how officers will demonstrate accessibility in the handling of a complaint. There are two essential components to demonstrating accessibility: (1) being aware of needs and (2) reducing access barriers.

Awareness

• Officers will have awareness of, and sensitivity to, the diversity of the Australian community and will be responsive to the different needs of the people accessing the Scheme. This includes physical, mental, age, cultural, ethnic, religious, technological and/or geographic needs.
• Officers will treat all people equally regardless of each person’s age, gender identity, religion, culture, ethnicity, sexual preference or disability.
• Officers will seek to provide information on the Scheme’s processes in an easily understood and accessible format; for example, using plain English or advising a person of the availability of large print information material.
• Officers, where relevant, will advise complainants of their right to lodge their complaint via the Scheme’s online complaints form, in person, over the phone, via email or by post.
• Officers, where relevant, will advise complainants of their right to lodge their complaint confidentially or anonymously, and the limitations of the Scheme in achieving an outcome.
• Officers will advise complainants on the limitations of the Scheme’s jurisdiction to handle certain complaints. If the handling of complaints is not within the Scheme’s jurisdiction then, where appropriate, officers will advise complainants of the relevant agencies which may assist them to address their complaints.
• Officers, where appropriate, will consult with complainants about their preferred method of contact and tailor their correspondence accordingly.
• Officers will advise the parties to a complaint of their internal and external examination and reconsideration rights.
• When selecting a resolution approach, officers will consider the special needs of the parties to the complaint.
Reduce access barriers

- Officers will support equal access to the Scheme by being aware of, and responsive to, the special access needs of the Australian community.
- Officers will take all reasonable action to support equal access to the Scheme. For example, officers will accept complaints from translation services on behalf of non-English speaking complainants.
- Officers will respond to the special needs of all parties to a complaint by (where appropriate and with permission):
  - organising a telephone interpreter service
  - advising parties with a hearing/speech impairment of the availability of the National Relay Service
  - considering the most appropriate mode of communication in collaboration with the parties to a complaint
  - informing the complainant of the role of advocacy services and how to access these services
  - assisting the complainant to access information in a format that will help with their understanding
  - selecting meeting venues that are accessible.

3.6 Operational expectations - Demonstrating fairness

The following operational expectations outline how officers will demonstrate they have acted fairly in their handling of a complaint. There are four essential components to demonstrating fairness: (1) impartiality, (2) transparency, (3) confidentiality and (4) consistency.

Impartiality

- Officers will manage complainant expectations by clearly explaining the Scheme’s processes and what outcomes the Scheme can and cannot achieve.
- Officers will manage complaints with an open mind and will not pre-determine the veracity of a complaint based on any previous interactions with any parties to the complaint.
- Officers will provide, where appropriate, the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made.
- Decisions will be based on a reasonable interpretation of all the available information.
- Complaint reviews, if possible, will be undertaken by an officer and a delegate, both of whom were not previously involved in the original complaint to ensure impartiality.
- Officers will declare a conflict of interest where a reasonable person would consider that the officer has an actual or perceived conflict of interest.
- If officers have any concerns about how a conflict of interest might apply in particular circumstances they will consult a manager.
**Transparency**

- Officers will, where appropriate, seek to obtain the views and wishes of the care recipient and/or their representative.
- Officers will provide the parties to a complaint with appropriate and easily understood information regarding the complaints resolution process.
- Officers will support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons.
- Officers will inform parties that they have collected their personal information where it is reasonable and practicable to do so.
- Officers will inform the service provider of the complaint in a timely manner, unless doing so might:
  - compromise the complaints resolution process
  - pose a risk to the safety, health and wellbeing of a party to the complaint, and/or
  - place the care recipient and/or complainant at risk of intimidation or harassment.

**Confidentiality**

- Officers will comply with privacy requirements when collecting, using, disclosing and storing information.
- Officers will ensure that any request for confidentiality is complied with unless doing so would pose a risk to the safety, health and wellbeing of any person. In such cases, the officer will reasonably attempt to notify the person who requested confidentiality that information will be released and the basis of the decision.

**Consistency**

- Officers will manage complaints in accordance with the Scheme’s guidelines, policies and procedures to ensure consistency in the management of complaints.

### 3.7 Operational expectations - Demonstrating responsiveness

The following operational expectations outline how officers will demonstrate they have been responsive in their handling of a complaint. There are three essential components to demonstrating responsiveness: (1) acknowledge, (2) escalate and resolve and (3) be courteous.

**Acknowledge**

- Officers will promptly acknowledge receipt of all oral and written complaints, except in the instance of an anonymous complaint.
- Officers will keep all parties to a complaint informed, except the complainant in the instance of an anonymous complaint.
- Officers will maintain an awareness of the type of complaint to be referred to other areas and refer these matters in a timely manner.
Escalate and resolve
• Officers will promptly escalate complaints in accordance with the Scheme’s risk management framework.
• Officers will seek to achieve the most timely, appropriate and positive outcome for the care recipient/s.
• Officers will aim to resolve complaints within reasonable timeframes, wherever possible.
• Officers will encourage service providers to consider an apology to appropriate complaint parties to facilitate complaint resolution.
• Officers will make decisions fairly, impartially and promptly, giving consideration to all available information, legislative requirements and the Scheme’s policies, procedures and guidelines.
• Managers will actively monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes.

Be courteous
• Officers will treat all parties to a complaint with respect, courtesy and with due consideration of their privacy.
• Officers, where appropriate, will advise all parties to a complaint that it is expected they will treat officers with courtesy and respect.
• Officers will manage unreasonable conduct in a professional manner and in accordance with the Scheme’s policies and procedures.
• Officers, where appropriate, will provide an apology to parties raising a concern about the Scheme’s handling of the complaint, including through a review process.

3.8 Operational expectations - Demonstrating efficiency

Resolve effectively
• Officers will use the Scheme’s guidelines and risk assessment and resolution planning tools to identify risk and support the timely, proportionate and appropriate resolution of complaints in a way that will achieve positive outcomes for care recipients.
• Officers will continue to review the risk profile and resolution approach for a complaint in response to new and relevant information.
• In determining the appropriate resolution approach, officers will consider the capacity and wishes of the complainant, care recipient and/or representative and service provider.
• Officers will ensure the resolution approach is proportionate to any risk to the safety, health and wellbeing of a care recipient.
• Officers will seek to ensure the resolution approach supports the reasonable use of the service provider’s and Scheme’s resources.
• Officers will, where possible, seek to foster improved relationships between complainants and service providers who have an ongoing relationship.
• Officers may make referrals to other regulatory areas of the department and appropriate external bodies.

Active monitor
• Officers will monitor the progress of complaints and notify a manager when a complaint is not progressing within reasonable timeframes.
• Managers will monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes.
• Officers will review and use information to identify opportunities for continuous improvement in the management of complaints.
• Officers will encourage continuous improvement in the quality of care and services through the complaints process.

3.9 Operational expectations - Demonstrating sound judgment

The following operational expectations outline how officers will demonstrate they apply sound judgment in their handling of complaints. There are two essential components to demonstrating sound judgement: (1) informed decisions and (2) consistent decisions.

Informed decisions
• Officers will seek out and draw on information from diverse sources and use their experience and judgement to analyse what information is important, and how it should be used.
• Officers will seek to draw informed, objective and accurate conclusions by interpreting the best available and relevant information and clarifying information to avoid unwarranted assumptions about the complaint or parties to the complaint.
• Officers will exercise diligence to ensure information and advice they provide is accurate.
• Officers will identify problems, assess their significance and escalate as necessary.

Consistent decisions
• Officers will understand and work within the broader regulatory framework governing the Scheme and the department.
• Officers will exercise discretion and be responsible and accountable for applying the complaints management processes.
• Officers will make decisions that are consistent with the Act, the Aged Care Principles and the complaints management principles and support the Scheme to achieve its objectives.
• Officers will work within the scope of their delegation as it applies to the Scheme.
• Officers will seek advice from managers if they require clarification or are unsure about the application of policies and procedures in relation to managing an issue in accordance with the Scheme’s complaints management principles.
• Officers will use their peers and the department’s broader resources to support accurate, objective, reasonable and consistent decision-making.
• Managers will mentor and provide guidance to officers to assist them in applying sound judgment.

3.10 Operational expectations - Demonstrating accountability

The following operational expectations outline how officers will demonstrate accountability in their handling of complaints. There are two essential components to demonstrating accountability: (1) the operating framework and (2) meeting obligations.

Operating framework
• Officers will ensure their decisions and dealings with complainants, care recipients, service providers and other parties are consistent with the legislation, agreements, guidelines, policies and procedures that govern the Scheme.
• Officers will seek to develop and maintain appropriate knowledge and skills to perform their roles effectively.
• Officers will understand and work towards meeting the Scheme’s timeframes in the resolution of complaints.
• Officers will ensure that delegates making a decision have access to all relevant information that will inform their decision.
• Officers will use the department’s resources, including equipment and property, efficiently, effectively and ethically.

Meeting obligations
• Officers will ensure they comply with all relevant legislation, regulatory requirements, professional standards and guidelines. This includes acting in accordance with their delegated responsibilities, the Scheme’s Service Charter and the APS Values and the Code of Conduct.
• Officers will ensure all parties to a complaint are advised of their right to a review of the Scheme’s decision and/or the Scheme’s handling of a complaint. This does not, however, apply to anonymous complainants.
• Officers will not disclose protected information or documents other than as required by law or where proper authorisation is given.
• Officers will not misuse protected or confidential information for personal or commercial gain for themselves or another.
• Officers will ensure all personal, sensitive or confidential information is collected, used, disclosed, stored and disposed of in accordance with the Act, the Privacy Act 1988, and the department’s recordkeeping policies and procedures.
• Officers will ensure that all relevant information is accurately and appropriately documented in a timely manner in accordance with departmental guidelines.

3.11 Further information for Scheme officers to be aware of

These Guidelines are applied by employees of the department who must adhere to a range of legislation, guidelines and policies in the conduct of their work. Officers need to be aware of relevant information that affects the Scheme, in order to meet the complaints management principles and ensure consistency in handling complaints.

A list of relevant information sources that provide further information related to the six fundamentals of complaints handling is below.

**Note:** Laws relating to privacy, freedom of information, guardianship and advocacy vary between states and territories. Officers will need to be aware of relevant legislation as it applies to their work.

<table>
<thead>
<tr>
<th>Information source</th>
<th>Description</th>
<th>Information relates to:</th>
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<tbody>
<tr>
<td><strong>Aged Care Act 1997 (the Act)</strong></td>
<td>Protected information - Part 6.2 of the Act describes ‘protected information’ and the circumstances in which it may be disclosed.</td>
<td>Fairness, Accountability</td>
</tr>
<tr>
<td><strong>Powers of authorised officers</strong></td>
<td>Part 6.4 of the Act sets out the powers of authorised officers, particularly:</td>
<td></td>
</tr>
<tr>
<td>• what powers can be exercised and when</td>
<td></td>
<td></td>
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<td>• the powers around asking questions and obtaining documents, and</td>
<td></td>
<td></td>
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<tr>
<td>• the obligations of authorised officers in respect to identity cards.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refer to the <a href="https://comlaw.gov.au">Comlaw website</a></td>
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<td></td>
</tr>
<tr>
<td><strong>Aged Care (Transitional Provisions) Act 1997</strong></td>
<td>This legislation only applies to continuing care recipients who entered a residential aged care service before 1 July 2014 and who continue to be provided with residential care under the fees and payment provisions of this legislation. Refer to the <a href="https://comlaw.gov.au">Comlaw website</a></td>
<td>Accountability</td>
</tr>
<tr>
<td><strong>Administrative Decisions (Judicial Review) Act 1977</strong></td>
<td>This legislation provides procedures and grounds for the judicial review of certain administrative decisions made by Commonwealth authorities or officers, such as the department. Refer to the <a href="https://comlaw.gov.au">Comlaw website</a></td>
<td>Accountability</td>
</tr>
<tr>
<td><strong>Archives Act 1983</strong></td>
<td>This legislation provides for the National Archives of Australia to oversee Commonwealth recordkeeping and to impose recordkeeping obligations in respect of Commonwealth records. It affects the department by specifying how records are stored, managed and disposed of. Refer to the <a href="https://comlaw.gov.au">Comlaw website</a> or</td>
<td>Accountability</td>
</tr>
<tr>
<td>Information source</td>
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<tr>
<td>National Archives of Australia website</td>
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| **APS Values and the Code of Conduct in practice** | The [APS Values and the Code of Conduct](#) assist APS employees to understand the practical application of their obligations.  
*Conflict of interest* - APS employees must disclose and take reasonable steps to avoid, any actual or perceived conflict of interest in connection with APS employment. | Accessibility  
Fairness  
Responsiveness  
Accountability |
| **Freedom of Information Act 1982** | This legislation provides for public access to government documents, subject to certain restrictions, to promote accountability and transparency, and to enable the public to participate more effectively in governing the state. This Act affects both electronic and non-electronic information and how the department must correct, annotate, and update records if the information is wrong. Refer to the [Comlaw website](#) or the [Office of the Information Commissioner's website](#) | Accountability |
| National Aged Care Advocacy Program | Advocacy services are funded under the department's [National Aged Care Advocacy Program](#). | Responsiveness |
| National Anti-Discrimination Information Gateway | The National Anti-Discrimination Information Gateway Laws provides detailed information about what constitutes discrimination at both the Commonwealth and the state and territory levels. | Accessibility |
| **Privacy Act 1988** | The [Privacy Act 1988](#) regulates the way in which the personal information of individuals is handled by Australian Government Agencies. This legislation affects the department's handling of personal information, including:  
• storage, use and keeping personal information safe  
• providing appropriate access to personal information, and  
• setting out privacy principles that must be followed when creating information and document handling systems  
Refer to the [Comlaw website](#) or the [Office of the Australian Information Commissioner website](#) | Accountability |
<p>| Ombudsman | This legislation sets out the Ombudsman’s role, | Accountability |</p>
<table>
<thead>
<tr>
<th>Information source</th>
<th>Description</th>
<th>Information relates to:</th>
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| Act 1976                                               | responsibilities and powers, which include:  
• investigating complaints about the administrative actions of Australian Government officials and agencies, and  
• reviewing statutory compliance by agencies  
• developing policies and principles for accountability.  
Refer to the [Comlaw website](https://comlaw.gov.au)                                                                                                                                  |                                                                       |
| Public Governance, Performance and Accountability Act 2013 | This legislation provides a framework for the proper management of public money and public property.  
Refer to the [Comlaw website](https://comlaw.gov.au)                                                                                                                                   | Accountability            |
| Public Service Act 1999                                 | This legislation sets out the values which public servants need to uphold and a code of conduct for public service employees, as well as external processes through which public servants can be held accountable.  
Refer to the [Comlaw website](https://comlaw.gov.au)                                                                                                                                   | Accountability            |
| Policy on preventing and managing unreasonable conduct from external parties | This policy outlines how the National Aged Care Regulatory Programme, including the Scheme, will manage unreasonable conduct from external parties.  
It is expected that complainants will treat Scheme officers fairly and respectfully; this expectation.  
Refer to the [Comlaw website](https://comlaw.gov.au)                                                                                                                                   | Responsive-ness           |
| Scheme’s notice of collection                           | The Scheme’s [Notice of collection](https://comlaw.gov.au) outlines what the Scheme may collect, use and disclose.                                                                                                                                                                                                                                                                                     | Responsive-ness           |
| Scheme’s Service Commitment                             | The Scheme’s [Service Commitment](https://comlaw.gov.au) describes the level of service that complainants and service providers can expect from the Scheme during a resolution process.                                                                                                                                   | Responsive-ness, Accountability |
Chapter 4: Intake Phase

This chapter sets out the key activities to be undertaken by officers during the intake phase, the first of the four phases of the complaints management process.

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The Scheme will accept any information. However, officers must consider whether the information is relevant to and necessary for dealing with a complaint and the appropriate handling of that information. This includes:

- Information that might have been obtained without the knowledge or consent of the person/s involved, such as copies of documents, audio recordings, video recordings or photographs of care recipients or others
- Information that requires clarification about whom and what it relates to, such as photographs of a wound or body part, and
- Information that was provided confidentially.

Clarification or consent about information the Scheme receives might need to be obtained from the...
person involved or a care recipient’s representative.

If the Scheme did **not** request the information and it is **not** relevant to the complaint issues raised the information will **not** be considered further and, as appropriate, the information will not be retained by the Scheme. Otherwise officers will consider how the information guides the Scheme’s line of enquiry into relevant complaint issues.

**Important!** If officers are unsure about how to handle information the Scheme receives, including where officers **cannot** be satisfied that consent was obtained from the person involved or the information was provided confidentially, they must consult their manager.

**Important!** Where unsolicited personal and sensitive information is received by the Scheme, officers must ensure it is handled appropriately in regards to the APPs.

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### Activity 2: Classifying information

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### Activity 3: Collecting information

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Activity 6: Escalating complaints to a manager | 4.34 Timeframes for escalating a complaint to a manager  4.35 Using the intake escalation matrix  
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Activity 9: Acknowledging receipt of the complaint | 4.45 Contents of an acknowledgement letter  4.46 When to send an acknowledgement letter  
Activity 10: Workflow to the detailed assessment phase | 4.47 When to workflow to the detailed assessment phase

**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.

**Note:** Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.
Overview of the intake phase

4.1 The types of initial contact at the intake phase

During the intake phase members of the public and service providers make initial contact with the Scheme. Contact may be made through:

- inquiries and complaints about care and services provided to care recipients by service providers
- notifications from service providers concerning their compulsory reporting requirements and other matters
- referrals from external organisations and other areas within the department to assist the Scheme perform its regulatory functions, and
- out-of-scope inquiries that relate to matters which are beyond the role of the Scheme.

4.2 Complaints management principles relevant to the intake phase

In responding to complaints at the intake phase, officers should have particular regard to the complaints management principles set out below. Officers will:

- promptly acknowledge receipt of all oral and written complaints, except in the instance of an anonymous complaint.
- ensure that all relevant information is recorded in a timely manner on the Scheme’s official information management system.
- check and clarify information, to avoid unwarranted assumptions and draw accurate conclusions.
- seek to handle complaints in a way that will achieve the most timely, proportionate, appropriate and positive outcome for the care recipient/s.
- tailor communication to the needs of the complainant or other parties to the complaint.
- provide the parties to the complaint appropriate and easily understood information regarding the process of resolving complaints.
- manage complainant expectations by clearly explaining the Scheme's processes and what outcomes can and cannot be achieved.
- seek to support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons.
- promptly escalate complaints in accordance with the Scheme’s risk management framework.
4.3 Key activities at the intake phase

The activity descriptions below outline the key activities to be undertaken by officers at the intake phase.

- **Activity 1: Receiving information** - The Scheme may receive information such as an enquiry or a complaint from any person or organisation. Officers must record this information and any other relevant information as per the department’s recordkeeping procedures.

- **Activity 2: Classifying information** - Officers must classify all information received by the Scheme as either in-scope or out-of-scope.

- **Activity 3: Collecting information** - Officers must collect comprehensive information about a complaint but only basic information needs to be collected for out-of-scope inquiries.

- **Activity 4: Providing information** - Officers must provide comprehensive information for inquiries and complaints but only basic information needs to be provided for out-of-scope inquiries.

- **Activity 5: Finalising inquiries** - If the information provided does not raise any concerns officers may resolve and finalise out-of-scope and in-scope inquiries without consulting with their manager.

- **Activity 6: Escalating complaints to a manager** - The intake escalation matrix (IEM) sets out the timeframe which determines if: (1) officers may continue to support early resolution of the complaint or (2) officers must escalate the complaint to their manager immediately.

- **Activity 7: Preliminary assessment of a service provider’s history** - Officers may be required to assess the service provider’s history to assist them in deciding whether the complaint can be resolved at the intake phase or whether it requires a more detailed assessment.

- **Activity 8: Supporting early resolution of complaints** - Officers may support complainants in resolving their complaints without the Scheme commencing a formal resolution process. In these cases, the complaint may be suitable for early resolution at the intake phase.

- **Activity 9: Acknowledging receipt of the complaint** - Officers should aim to send a letter within seven days of receiving a complaint, by either a) acknowledging receipt of the complaint or b) acknowledging and confirming the issues in the complaint.

- **Activity 10: Workflow to detailed assessment phase** - Once the above key activities have been completed, and if the complaint has not been resolved at the intake phase, the complaint workflows to the detailed assessment phase.
Activity 1: Receiving information

4.4 Who can contact the Scheme?

The Scheme is a free service available to any person or organisation, including:

- care recipients and their family or friends
- staff members or volunteers/carers
- advocacy services
- other areas of the department, and
- external organisations.

4.5 How can the Scheme be contacted?

The Scheme can receive information via:

- telephone – free call 1800 550 552
- letter –
  Aged Care Complaints Scheme
  Australian Department of Social Services
  GPO Box 9820
  (In the capital city and state/territory the care is being provided)
- email – cis.[enter state name]@dss.gov.au; for example: cis.qld@dss.gov.au
- online complaints on the Department of Social Services website (DSS), or
- in person.

Note: As the Scheme’s 1800 550 552 telephone service is accessible to service providers 24 hours a day, 7 days a week, the department also uses this 1800 number to receive notifications from service providers in respect of compulsory reporting responsibilities.

4.6 When can the Scheme be contacted?

The Scheme operates:

- 9.00am – 5.00pm (local time) weekdays
- 12.00pm – 5.00pm (AEST) weekends and public holidays.

Outside of these hours, a message can be left on the Scheme’s answering machine requesting an officer to return the call during business hours.

4.7 Scheme recordkeeping and information management at the Intake Phase

The Scheme intake officers are the first point of contact and record all information received from any person or organisation.

The Scheme collects and uses personal information, including sensitive information, for the purpose of performing its functions as set out in the Act. The Scheme’s Notice of Collection and the department’s Privacy Policy sets out how the Scheme and department
Guidelines for the Aged Care Complaints Scheme

comply with the Australian Privacy Principles (APPs) set out in the Privacy Act 1988 (the Privacy Act).

Officers must ensure that:

• all relevant information is recorded in a timely manner on the Scheme’s official information management system.

• all personal and sensitive information received by the Scheme is handled appropriately in regards to the APPs. The Notice of Collection will be provided to individuals before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual.

• the intake escalation matrix (IEM) is considered either during the first contact with the complainant or immediately thereafter to ensure nationally consistent criteria are applied to complaint handling at the intake phase.

4.8 Considerations about information the Scheme might receive

The Scheme will accept any information. However, officers must consider whether the information is relevant to and necessary for dealing with a complaint and the appropriate handling of that information. This includes:

• Information that might have been obtained without the knowledge or consent of the person/s involved, such as copies of documents, audio recordings, video recordings or photographs of care recipients or others

• Information that requires clarification about whom and what it relates to, such as photographs of a wound or body part, and

• Information that was provided confidentially.

Clarification or consent about information the Scheme receives might need to be obtained from the person involved or a care recipient’s representative.

If the Scheme did not request the information and it is not relevant to the complaint issues raised the information will not be considered further and, as appropriate, the information will not be retained by the Scheme. Otherwise officers will consider how the information guides the Scheme’s line of enquiry into relevant complaint issues.

Important! If officers are unsure about how to handle information the Scheme receives, including where officers cannot be satisfied that consent was obtained from the person involved or the information was provided confidentially, they must consult their manager.

Important! Where unsolicited personal and sensitive information is received by the Scheme, officers must ensure it is handled appropriately in regards to the APPs.

4.9 How the Scheme handles unreasonable complainant conduct

The Scheme may place limits on a complainant’s contact with the Scheme. The circumstances in which the Scheme may do this are described in the Policy on Preventing and Managing Unreasonable Complainant Conduct available on the DSS website.
Activity 2: Classifying information

4.10 Accurately classifying information

It is crucial officers accurately classify information received by the Scheme at the intake phase since classification of the information impacts:

- how the Scheme manages the information, including personal and sensitive information
- the review rights of the person providing the information, and
- the Scheme’s public reporting on its activities such as in the department’s Annual Report, Report on Government Services and ‘Report on the Operation of the Aged Care Act 1997’

4.11 Three stages of classifying information

There are three stages to be followed by officers for the classifying of information:

**Stage one** requires the *information* to be classified as:

- in-scope, or
- out-of-scope.

**Stage two** requires *in-scope information* to be classified as:

- a complaint
- an enquiry
- a notification
- a reportable assault,
- a missing resident,
- an own initiative concern, or
- information from other sources.

**Stage three** requires *complaints* to be classified as:

- Open
- Confidential, or
- Anonymous.

The diagram below shows how information is classified.
4.12 What is in-scope information?

Officers assess whether the information is in-scope by:

1. **Determining that the information relates to a person receiving:**
   - Residential aged care services, including permanent care and respite care
   - Home Care Packages delivered on a Consumer Directed Care basis
   - Flexible Care where a person is receiving ‘residential care’ or ‘home care’; this includes services provided through Transition Care, Innovative Care or Multi-purpose services (MPS)
   - Commonwealth Home Support Programme (CHSP)
   - National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP)

   This includes where the care recipient might:
   - have a current approval from an Aged Care Assessment Team for residential care services but is not in an Australian Government subsidised residential care place
   - be a continuing care recipient who is provided residential care under the fees and payment provisions of the *Aged Care (Transitional Provisions) Act 1997*
   - not be named or identifiable
   - no longer be receiving services from the service provider to which the information relates, or
   - be deceased.
Note: On 1 July 2015, CHSP consolidated a number of entry-level programmes; refer to Chapter 10. The CHSP does not apply to HACC services in Western Australia or Victoria.

2. Determining that the information relates to a responsibility of an approved provider as defined in Chapter 4 of the Act or the Aged Care Principles or a Comprehensive Grant Agreement.

Responsibilities of approved providers include:

- quality of care provided to care recipients (this includes specified care and services)
- user rights for the people for whom the care is provided (this includes the Charter of Rights and Responsibilities in both residential and home care), and
- accountability for the care that is provided and the basic suitability of their key personnel (this includes obligations in respect to compulsory reporting and recordkeeping).

Responsibilities of Australian Government subsidised aged care programs under a Comprehensive Grant Agreement are outlined in Chapter 10 of these Guidelines. They generally relate to the same responsibilities outlined above.

4.13 How to confirm in-scope information

Officers are able to confirm the information has been classified correctly as in-scope by referring to the information held on the department’s official information management systems. These have a current list of all service providers, the residential, home care or flexible services they are approved to provide and, for residential and Home Care Package services, a list of past and present care recipients of each service.

In a situation where the complainant declines or otherwise fails to identify the service or approved provider, the officer would then be unable to confirm if the issues relate to a service provider and, as such, no further action can be taken. In this circumstance the information provided is out-of-scope.

Exception: Where a care recipient is not in an Australian Government subsidised residential care place and does not have a current approval from an Aged Care Assessment Team for residential care services, a manager may, as an exception, consider the information as in-scope.

Important! If there is any doubt whether the issue relates to a service provider’s responsibilities, it should be treated as in-scope.

Important! If an officer is uncertain whether the information is to be classified as in-scope, they should consult with a manager.

4.14 What is out-of-scope information?

Out-of-scope information refers to any information that cannot be managed by the Scheme because the information does not satisfy the definition of in-scope.

Common out-of-scope information received by the Scheme includes inquiries, which may also be complaints, about:

- retirement villages not regulated by the Act
- industrial matters concerning service providers
• determining who should be a care recipient’s guardian
• industrial relations issues or disputes between staff and service providers about employment arrangements
• the provision of hospital services
• the provision of services by a doctor who is not employed by the service provider
• care and services provided by an aged care provider where the complainant fails to identify the service or provider, or
• other aged care programmes that are outside the Scheme’s jurisdiction (refer to Topic 1.6 Programmes within and outside the Scheme’s jurisdiction).

Note: While out-of-scope information is not within the scope of the Scheme, officers should ensure that all reasonable assistance is provided by referring the person to an area of the department or an external organisation that may be able to assist with their enquiry or complaint.

4.15 What is a complaint?
A complaint is where a person expresses dissatisfaction with any aspect of a service provider’s responsibilities and the Scheme is required to facilitate the resolution of that complaint.

A complaint is not:

• a request for information or an explanation regarding aspects of a service provider’s responsibilities, nor
• an appeal against a decision made by the Scheme or the Scheme’s handling of a complaint – such concerns should be dealt with under the review process.

4.16 What is an open complaint?
An open complaint is where the complainant agrees to any information they have provided the Scheme being disclosed to the service provider to whom the complaint relates.

A complainant who lodges an open complaint can be involved in the resolution process and receive feedback.

4.17 What is a confidential complaint?
A confidential complaint is where the complainant requests that all or part of the information they have provided not be disclosed to the service provider.

A complainant who lodges a confidential complaint can be involved in the resolution process and receive feedback. However, confidential complaints can:

• impact on the resolution approaches available
• impact the outcomes that can be achieved, and
• limit the feedback that can be provided.

Note: Conciliation between the service provider and the complainant will not be possible if the complaint is confidential.
Important! Complainants should be advised that the Scheme may need to make enquiries with the service provider during the complaint process, thus there is a risk that, despite the Scheme’s best efforts, a confidential complainant might be identifiable.

4.18 What is an anonymous complaint?

An anonymous complaint is one where complainants do not disclose their details to the Scheme, or if they do, request that their details not be recorded.

If complainants request to be anonymous they will not be provided with feedback. Where action is taken to resolve the complaint, the service provider may be provided feedback.

4.19 What is a notification?

A notification is information provided:

• by a service provider about a reportable assault
• by a service provider about the unexplained absence of a care recipient
• by a service provider or the relevant state or territory authority about an infectious disease outbreak
• from any source about a natural disaster
• from any source about an emergency event, or
• about any other related matter.

Note: Service provider notifications are managed under a separate process; refer to Chapter 9: Service Provider Notifications. Service providers are not required to notify the Scheme about an infectious disease outbreak.

Important! If someone other than a service provider gives information about a suspected or alleged assault of a care recipient, or the unexplained absence of a care recipient, this should be classified and managed as a complaint as the service provider may not have met their obligations.

4.20 What is an enquiry?

An enquiry is where a person requests information to better understand the responsibilities of a service provider, and/or on how the complainant may resolve their enquiry directly with the service provider to which the concern relates.

Information provided by the Scheme to the person making an enquiry can include:

• routine information about approved provider responsibilities under the Act and Aged Care Principles; for example, meals and refreshments, toiletries or mobility aids that are required to be provided
• routine information about service provider responsibilities under the relevant programme
• routine information about a care recipient’s rights under the Act and Aged Care Principles, including the Charter of Rights and Responsibilities for residential care and home care.
• information on the role of advocacy services and how to access them
• information on how other organisations or another area of the department may be able to assist the person to resolve their concerns, and/or
• information on the Scheme’s process for managing complaints.

Note: An enquiry becomes a complaint when the Scheme goes beyond providing routine information.

4.21 What is an own initiative concern?

An own initiative concern is where the Scheme receives information that raises concerns about whether a service provider is meeting its responsibilities and the Scheme decides to initiate a resolution process in relation to the issue.

For example, a resolution process might be initiated where the Scheme:

• is concerned about a notification
• receives information to assist it in performing its regulatory functions, that indicates a service provider may not be meeting its responsibilities under the Act, or
• identifies serious concerns about whether a service provider is meeting its responsibilities under the Act in respect to issues that are not part of a complaint that initiated a resolution process.

Activity 3: Collecting information

4.22 Determining the level of information to collect

During the initial contact with the person, officers should ensure sufficient information is collected to enable the enquiry or complaint to be assessed, escalated and managed. This will vary depending on the classification of the information (see Activity 2: Classifying information).

While it is important to obtain sufficient information to enable an assessment of risk and so on, it is equally important to be responsive to the person by tailoring the mode and manner of communication to meet the needs of the person.

Important! Information provided to officers can be highly personal, sensitive, unpleasant, distressing and contentious. Care should be taken to alleviate any distress to the complainant or other parties to the complaint, including the officers involved.

4.23 Complaints – essential information to collect

Officers should collect and record the following information for all complaints:

Complainant details
• Privacy status – open, confidential or anonymous (refer to definitions given in Activity 2: Classifying information).
• Complainant’s name and contact details (if not anonymous).
• Relationship between the complainant and the care recipient/s.
• Any special needs of the complainant that may require the Scheme to tailor communication for the complainant.
• The complainant’s expectations of the Scheme. What outcome/s they are seeking and what they expect the Scheme to do.
• As appropriate, the complainant’s acknowledgment that the Scheme has or will collect their personal information (this should be recorded in file-notes).

Care recipient details
• Name of the care recipient/s to which the complaint relates. Note that if the complainant is unable or unwilling to identify the care recipient they should be advised that it can limit the Scheme’s ability to resolve the complaint.
• The cognitive capacity of the care recipient.
• Extent of any power of attorney/guardianship arrangements.
• Whether the care recipient is aware that the complainant is contacting the Scheme and
• if so, whether they support the complaint being progressed, or
• if not, why not?
• The care recipient’s capacity and/or willingness to engage in the resolution process.
• Where required, the care recipient’s enduring power of attorney (EPOA) details and associated documentation.
• The care recipient's or their representative's acknowledgment that the Scheme has or will collect their personal information.

Service provider details
• Name of the aged care service to which the complaint relates. (If the complainant is unable or unwilling to identify the service provider, they should be advised that this will prevent the Scheme from resolving the complaint beyond providing information to the complainant on how they may choose to resolve their complaint themselves.)
• Whether the matter has been raised with the service provider, and if so, what the service provider’s response was.
• Whether the complainant is aware of the service provider’s complaints handling policy.

Note: Officers should apply sound judgment when deciding how much information to obtain and the order in which to obtain it. If a person is becoming distressed, angry or confused, the officer can offer to follow up with them at a more suitable time by phone or in writing via letter or email.

Important! Officers must ensure that complainants are aware of how the information they provide may be used. Complainants should also be advised that, if necessary, officers have the power to obtain any documentation held by the service provider that relates to the care recipient, so it is unnecessary for the complainant to provide such information.
4.24  **In-scope enquiries - essential information to collect**

Officers should collect and record sufficient information for an in-scope enquiry to demonstrate:

- the nature of the information the person is seeking
- the name of the service provider and aged care service to which the information relates (if it cannot be confirmed that the information relates to a service provider, the information should be classified as out-of-scope)
- whether the person’s enquiry has been resolved, and
- whether the information provided is confidential.

**Note:** Where the contact details of an inquirer are provided they should be recorded.

4.25  **Own initiative concerns – essential information to collect**

Information communicated to officers might give rise to an own initiative concern. Officers should collect and record sufficient information to demonstrate:

- the source of the information; for example, Quality Agency referral
- when and how the concern was identified; for example, the concern was identified by officers during a complaint resolution process
- the name of the service provider/aged care service
- the reasons for commencing an own initiative concern, and
- whether feedback is required and, if so, to whom.

4.26  **Out-of-scope enquiries – essential information to collect**

Officers should collect and record sufficient information for an out-of-scope enquiry to demonstrate:

- why the information is out-of-scope, and
- the action taken to assist or refer the person or the information to an organisation that may be able to deal with the information or enquiry.

For example, a caller phoned regarding an aged care retirement village in ‘Sunnyville’. A check of the retirement village’s name against the list of service providers and their services confirmed the retirement village is not operated by a service provider and is therefore not within the scope of the Scheme. The caller is referred to the Department of Fair Trading which has responsibility for retirement villages.

**Activity 4: Providing information**

4.27  **Determining the level of information to provide**

During the initial contact with the person officers should ensure sufficient information is provided to enable the person to understand the Scheme’s processes and make informed decisions as to how to resolve their complaint or enquiry. This will vary depending on the classification of the information (see Activity 2: Classifying information).
Note: Where a person is becoming distressed, angry or too confused to understand all of the necessary information in one discussion, officers should use their judgment about the level of information they provide and consider whether it may be necessary to follow up with the person at a more suitable time by phone or in writing via a letter or an email.

Important! If an officer is unsure as to how much information to provide, the advice of a manager should be sought.

4.28 Complaints - essential information to provide

Where appropriate, officers should advise the complainant during the initial contact of the following information:

• The role and objectives of the Scheme.
• Information on the Scheme’s process for managing complaints.
• What the complainant can expect of the Scheme and what the Scheme expects of the complainant.
• What issues the Scheme can and cannot deal with; for example, the Scheme cannot comment on industrial matters or decide who should make financial, legal or health decisions on behalf of a care recipient.
• What outcomes can and cannot be achieved through the Scheme’s processes; for example, the Scheme cannot direct who a service provider employs but can ensure that staff are appropriately skilled and qualified.
• The right of the complainant to lodge a complaint confidentially or anonymously and the impact on the Scheme’s capacity to resolve the complaint.
• The possible uses of information and the circumstances in which the information provided by the complainant may be used and disclosed.
• If the complainant has any special needs or vulnerabilities, how the Scheme can assist; for example, advocacy services, interpreter services and so on.
• The statutory requirement for service providers to have complaint resolution mechanisms and the laws prohibiting any retribution as the result of a complaint being made.

4.29 In-scope enquiries - essential information to provide

The information that officers should provide a person making an enquiry will be influenced by the nature of the enquiry.

The information officers could provide includes:

• routine information about a service provider’s responsibilities under the Act and Aged Care Principles; for example, meals and refreshments, toiletries, mobility aids that are required to be provided
• routine information about a care recipient’s rights under the Act and Aged Care Principles
• information on the role of advocacy services and how to access them, and
• information on other organisations that may be able to assist them.

4.30 Out-of-scope enquiries – essential information to provide

It is important that officers advise the person making an enquiry about:

• the role of the Scheme
• what issues the Scheme can and cannot deal with; for example, what issues are in-scope and out-of-scope for the Scheme and why, and
• who may be able to assist with their query or complaint.

Activity 5: Finalising enquiries

4.31 When to finalise an in-scope enquiry

Officers may resolve and finalise an in-scope enquiry if the officer:

• is certain the person is making an enquiry (request for information) and not a complaint
• is able to resolve the enquiry through the provision of routine information
• does not have any concerns about the enquiry that would warrant the officer notifying a manager, and
• has recorded all the information obtained from, and provided to, the person.

Where an officer has no concerns regarding the information provided, they may quickly resolve and finalise the enquiry without having to escalate the information to their manager.

Note: Officers might receive information that raises significant concerns about the care and services being provided to a care recipient that the inquirer does not want the Scheme to take action on. As the department has a regulatory responsibility to protect the safety, health and wellbeing of recipients of aged care services, officers should consult a manager to confirm whether an own initiative resolution process should be commenced (Refer to Topic 4.20 What is an own initiative concern?).

Important! If an officer is uncertain as to how to resolve and finalise information, they should immediately seek the advice of a manager.

4.32 When to finalise an out-of-scope enquiry

Out-of-scope information may be immediately resolved and finalised if the officer:

• is certain the information is out-of-scope, and
• has clearly documented:
• why the information is out-of-scope, and
• the action taken by the officer to assist or refer the person or the information to an organisation that may be able to deal with the information or query.

Where an officer has no concerns regarding the information provided, they may quickly resolve and finalise the out-of-scope enquiry without having to escalate the information to their manager.
Note: Out-of-scope information would usually be finalised within the initial or subsequent contact.

4.33 Sending correspondence for in-scope or out-of-scope enquiries

There is no requirement to send correspondence to a person confirming the finalisation of an in-scope or out-of-scope enquiry. As a general rule correspondence will not be sent unless specifically requested by the person.

Where written correspondence is requested, the officer should seek the advice of a manager as to the nature of the correspondence to send.

Activity 6: Escalating complaints to a manager

4.34 Timeframes for escalating a complaint to a manager

The timeframes for escalating complaints to a manager are set out in the intake escalation matrix and support consistent, robust and timely decision making by ensuring managers have oversight and early input into how complaints are managed.

The intake escalation matrix also includes the nationally consistent criteria for assessing the likely impact of the issues in the complaint on the safety, health, wellbeing and dignity of care recipients.

Important! If an officer is unsure as to when to escalate a complaint to a manager, they should check with a manager immediately.

4.35 Using the intake escalation matrix

Either during the first contact with the complainant or immediately thereafter, officers should refer to the details in the intake escalation matrix and consider each of the issues in a complaint against the likely consequence for the care recipient. The descriptions of the likely consequences are not exhaustive, so officers should apply sound judgment in selecting the likely consequence that best fits the issues in complaint.

If the complaint identified is of significant concern the complaint will be escalated to a manager immediately and, at a maximum, a manager will have oversight of the complaint within 48 hours.

If a complaint has more than one issue where one issue requires escalation to a manager within 24 hours and the other issue within 48 hours, officers should escalate the complaint to a manager within the shorter timeframe.

Within the timeframe determined by the intake escalation matrix, officers can continue with the early resolution of a complaint unless, in an officer’s judgment, a preliminary assessment of the service provider’s history should be undertaken to decide if early resolution is suitable. For example, if an issue is classed as minor, an officer may continue with early resolution of the complaint for up to 48 hours before notifying a manager.
Activity 7: Preliminary assessment of service provider history

4.36 Who completes the preliminary assessment of service provider history?

Once an officer notifies a manager of a complaint, it is the manager’s responsibility to determine whether further preliminary assessment of the service provider’s history is required to assess:

- if the complaint is suitable for early resolution in the intake phase – refer to Activity 8: Supporting early resolution of complaints, or
- if the complaint should be referred to the detailed assessment phase for a more detailed risk assessment and to determine whether a resolution process should be commenced.

To assist in making that decision, a manager may request an officer to undertake a preliminary assessment of the service provider’s:

- complaints history
- compliance and sanctions history, and/or
- accreditation or quality reporting history.

Important! A service provider’s history should be assessed within the context of the service provider’s response to the complaints – not simply on the basis of the number of complaints the Scheme has received. The fact that a number of complaints have been made does not necessarily indicate a poor complaints history; it could indicate that the service provider is encouraging feedback and complaints. It is more important to understand how the service provider responded to the complaints.

4.37 Determining the level of service provider history required

If a complaint appears suitable for early resolution during the intake phase, the manager should request a preliminary assessment that provides enough history on the service provider to assist them in making an informed decision about the suitability of a complaint for early resolution.

At a minimum, it is expected a manager will consider the service provider’s compliance and sanctions history in deciding whether the complaint is suitable for early resolution.

Where an issue is not suitable for early resolution during the intake phase the manager should consider whether a preliminary assessment is required or, whether the complaint should be referred immediately to the detailed assessment phase.

4.38 Using service provider history to inform decision making

A service provider’s complaints and compliance history will assist managers to understand whether issues similar to the current issue/s in the complaint have previously been raised and the outcome of any previous complaints resolution process.

The presence or absence of a similar complaints history should, by itself, not be used to inform the veracity of the complaint. It may be used to inform:
• the risk rating of the complaint, which in turn may influence the way in which the Scheme responds to the complaint, or
• whether there is a ground for taking no further action, as the issues in the complaint have previously been dealt with by the Scheme.

A service provider’s accreditation or quality reporting history might also assist a manager to decide whether similar systemic issues have been identified by the Quality Agency or the department. For example, if the issue concerns inadequate staffing, and the Quality Agency has identified concerns with human resources, the risk rating of the complaint could increase and consideration might be given to whether a referral should be made to the Quality Agency. Similarly, where there are concerns that a service provider might not be complying with its responsibilities under the Act or the Comprehensive Grant Agreement, the Scheme has a role in referring matters for compliance action.

Activity 8: Supporting early resolution of complaints

4.39 Supporting early complaint resolution in the intake phase

In line with the Scheme’s objectives, officers should seek to resolve complaints in a manner that will achieve the most timely, efficient, effective, proportionate and appropriate resolution of the issues in the complaint.

Often, the most timely and appropriate resolution may be achieved by officers supporting complainants to resolve their complaints directly with service providers – without the Scheme’s ongoing formal involvement.

Important! If an officer is unsure about whether a complaint should be resolved and finalised during the intake phase, they should immediately seek the advice of a manager.

4.40 Which complaints are suitable for early resolution?

An issue may be suitable for early resolution at the intake phase if:
• the complainant decides that their complaint can be promptly resolved without the Scheme commencing a formal resolution process
• the issue/s does not present a significant risk to the safety, health or wellbeing of a care recipient and is not likely to be contentious, and/or
• based on initial discussions with the complainant and the service provider it seems that the parties do not have entrenched positions and are amenable to discussion and negotiation.

Note: Some security of tenure issues may be suitable for early resolution. Managers should apply sound judgment when deciding whether a security of tenure issue is suitable for early resolution.

4.41 How can support for early resolution be provided?

Officers can support the early resolution of a complaint by:
• assisting complainants to clarify the issues in a complaint and what outcome/s they seek
• providing routine information to complainants and/or service providers on the rights and responsibilities of approved providers and care recipients under the Act
• assisting complainants and service providers to communicate with each other; for example, assisting the parties to gain a broader understanding of each other’s point of view, and
• assisting the parties to a complaint to generate ideas for resolving it.

Support for early resolution is provided over the telephone. For example, officers make a few calls to the parties and the issue is resolved.

If formal meetings or detailed assessment of information is required to facilitate the resolution of the complaint, officers should speak with a manager to determine whether to workflow the complaint to the detailed assessment phase.

4.42 Sending correspondence about early resolution

Correspondence confirming the resolution of a complaint or a complainant’s decision to resolve their complaint directly with the service provider should be sent promptly to the complainant unless they advise the Scheme they do not wish to receive correspondence.

A letter should be sent advising complainants that if they require any future assistance from the Scheme they can contact the Scheme at any time.

4.43 When can the complaint be finalised?

A complaint can be finalised during the intake phase once:

• a complainant has advised that their complaint has been resolved
• a complainant advises that no further action is required by the Scheme as they would prefer to resolve the complaint directly with the service provider without the Scheme’s ongoing assistance, and
• a complainant has been sent a letter confirming the complaint has been finalised and that if they require any future assistance they can contact the Scheme at any time.

Note: A complaint can also be finalised in the intake phase if, on consultation with the intake manager, a delegated decision is made under paragraph 7(a) of the Complaints Principles to take no further action for one of the reasons stated under section 8.

4.44 What happens if early resolution falls outside of 14 days?

In line with the Scheme’s complaints management principles, the focus of early resolution is to support the timely, efficient, effective, proportionate and appropriate resolution of complaints.

When supporting early resolution of a complaint, officers should aim to complete this process within 14 days. If, at the end of this period, there are limited actions that need to take place to complete the process, officers should use their judgement to assess whether the case can be completed quickly. They should then discuss this with their manager to decide whether to continue with early resolution or to progress to the next phase.

For example, if one more phone call after the 14 days would complete early resolution of the complaint, this should be discussed with a manager. If at any point during the 14
days it becomes clear that early resolution will not be possible, officers should escalate the complaint to the next phase immediately.

If a complaint cannot be resolved within 14 days, the manager will determine if it should be referred to the detailed assessment phase for a more detailed risk assessment.

Activity 9: Acknowledging receipt of the complaint

4.45 Contents of an acknowledgement letter

An acknowledgment letter is the first piece of correspondence the Scheme sends complainants and is important as it provides the complainant with:

- their complaint identification number, which they can use to assist in future discussions with the Scheme
- an overview of the next steps that will be taken by the Scheme in response to their concerns
- the Scheme’s Service Charter, which details what the complainant can expect from the Scheme and what the Scheme can and cannot do, and
- the Scheme’s Notice of Collection.

Important! For confidential complaints, officers should ensure that all reasonable and appropriate steps are taken to respect the complainant’s request for confidentiality. All correspondence should be checked to ensure it maintains the request for confidentiality. This is particularly important when correspondence is being sent to a care recipient at a residential aged care service. In such circumstances, officers should send the correspondence in a form that does not identify that the correspondence is from the Scheme.

4.46 When to send an acknowledgement letter

Where a complaint cannot be resolved during the intake phase, it is important to ensure that the Scheme acknowledges receipt of the complaint in a timely manner.

Officers should aim to send a letter acknowledging a complaint or acknowledging and confirming the issues in a complaint within seven (7) days of receiving a complaint.

Note: The acknowledgment letter is not a prerequisite to the letter acknowledging and confirming the issues. If an acknowledgment letter has not been sent at the intake phase and is likely to precede a letter confirming the issues by only a couple of days, officers should use judgment to determine the most appropriate letter to send.

Activity 10: Workflow to the detailed assessment phase

4.47 When to workflow to the detailed assessment phase

If early resolution cannot be achieved at the intake phase, the complaint should workflow to the detailed assessment phase (refer to Chapter 5 Detailed Assessment Phase). In this case, key activities should be completed before a manager decides to workflow the complaint.
Chapter 5: Detailed Assessment Phase

This chapter sets out the key activities to be undertaken by officers during the detailed assessment phase, the second of the four phases of the complaints management process.

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**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.
Note: Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.
Overview of the detailed assessment phase

5.1 Working with more detailed information

The detailed assessment phase builds on the work undertaken by officers during the intake phase and takes into account further information to assist in the risk assessment and resolution planning of a complaint. A more detailed assessment also enables officers to manage complaints in a tailored, effective and timely manner.

**Important!** Officers should remember that the detailed assessment phase is not designed to determine the veracity of the complaint but to guide initial risk assessment and resolution planning.

Officers must ensure that all personal and sensitive information received by the Scheme is handled appropriately in regards to the APPs. A notice of collection will be provided to individuals before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual.

5.2 Purpose of the risk assessment and resolution plan (RARP)

A risk assessment and resolution plan (RARP) is a Scheme tool used to support the timely and effective resolution of complaints. The RARP provides common criteria for determining risk and assists officers to determine how the risks along with other information should inform the appropriate action, priority and timeframe for resolving the complaint. The RARP is usually established when the complaint workflows to the detailed assessment phase and records the progress of a complaint as circumstances change.

If early resolution for a complaint cannot be achieved to a complainant’s satisfaction a RARP is used to clearly document all relevant information collected during the intake and detailed assessment phases in order to progress the complaint.

The information in the RARP is assessed by managers who assign the complaint a risk rating and a resolution approach if the complaint is to be progressed to the resolution phase.

5.3 Complaints management principles relevant to the detailed assessment phase

In responding to complaints during the detailed assessment phase, officers should have particular regard to the complaints management principles set out below. Officers will:

- seek out and draw on information from diverse sources and use their experience and common sense to analyse what information is important and how it should be used
- promptly escalate complaints in accordance with the Scheme’s risk management framework
- seek to draw accurate conclusions by clarifying information to avoid unwarranted assumptions
- aim to resolve complaints within reasonable timeframes, wherever possible
- where appropriate, provide the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made
• ensure that any request for confidentiality is complied with unless doing so would pose a risk to the safety, health and wellbeing of any person. In such cases, the officer will reasonably attempt to notify the person who requested confidentiality that information will be released and the basis of the decision
• have awareness of, and sensitivity to, the diversity of the Australian community and be responsive to the different needs of people accessing the Scheme
• ensure the resolution approach used, is proportionate to the risk the issue in the complaint presents to the safety, health and wellbeing of a care recipient
• seek to ensure the resolution approach supports the equitable use of the service provider’s and the Scheme’s resources
• where possible, seek to foster improved relationships between complainants and service providers who have an ongoing relationship
• continue to review the risk profile and resolution approach for a complaint in response to new and relevant information, and
• use their peers and the department’s broader resources to support accurate, objective, reasonable and consistent decision making.

5.4 Key activities in the detailed assessment phase

• **Activity 1: Collecting and assessing relevant information** - Officers should determine what further information to collect to begin the risk assessment and resolution planning process for the complaint.

• **Activity 2: Risk assessment and resolution planning** - Officers need to use the RARP to support a nationally consistent approach to risk assessment and resolution planning.

• **Activity 3: Supporting early resolution** - If complainants decide that their complaints can be promptly resolved without the Scheme commencing a formal resolution process, officers can support complainants, service providers and other parties to the complaint to achieve early resolution of the complaint.

• **Activity 4: Taking no further action** - Before commencing a resolution process, officers should consider whether grounds for taking no further action exist.

• **Activity 5: Referrals to other areas or organisations** - A delegate may authorise the release of information to assist another organisation or another area within the department to perform its regulatory function. A referral does not prevent the Scheme from continuing with a resolution process.

• **Activity 6: Correspondence about the progress of the complaint** – Officers should confirm the issues with complainants before the complaint progresses and provide appropriate feedback to the relevant complaint parties. Feedback will include the possible review rights available to complaint parties.
• Activity 7: Workflow to the resolution phase – Managers should perform a quality assurance check and workflow complaints to the resolution phase within the timeframe set out in the RARP.

Activity 1: Collecting and assessing relevant information

5.5 Determining the level of information to collect to inform the RARP

In addition to the information obtained and provided during the intake phase, the range and level of information officers should collect during the detailed assessment phase to inform the RARP will vary depending on the specific complaint. It is therefore crucial officers apply their judgment to what information should be collected and from whom the information should be collected.

When determining who and where to collect information from, it is important that officers confirm with a manager:

• whether an unannounced site visit should be conducted
• whether it is appropriate to engage directly with care recipients and/or their nominated representatives, and
• the most appropriate way to engage with care recipients and/or their nominated representatives; for example over the phone, in writing, in person.

Important! If an unannounced site visit is being considered, officers should not contact the service provider in relation to the unannounced site visit.

Whilst it is important to gather and assess information from a range of sources to ensure informed and appropriate decisions are made about how to manage a complaint, it is equally important to do this in a proportionate manner. Some complaints will not require an extensive assessment due to the nature of the issues raised.

To ensure there is enough information to undertake the risk assessment and resolution planning process, officers can:

• review basic information about the care recipient/s
• engage with the service provider, care recipient/s and/or their nominated representative and other parties, unless it is inappropriate to do so
• review any other information as necessary and relevant; for example, prudential compliance, service provider history, aged care funding instrument, and
• undertake a more detailed review of the service providers history. For example, key personnel history.

Important! If an officer is unsure as to how much information to collect and assess, the advice of a manager should be sought. Where the Scheme collects personal or sensitive information about an individual, the individual or their representative must be provided a notice of collection.
5.6 Assessing a service provider’s complaints history

To ensure there is enough information to undertake the risk assessment and resolution planning process, a more detailed review of the service provider’s complaints history may be required. The service provider’s complaints history could assist officers to understand:

- whether similar issues to the current issue/s have been raised previously, including to identify key personnel involved in a previous complaint, and the outcome of any previous resolution process. This information might influence the resolution approach adopted; for example, it might not be appropriate to recommend a complaint for service provider resolution if the service provider has a poor history of dealing with complaints
- whether another officer is dealing with a complaint at the same service to which the new complaint relates. This may assist in determining to which officer the complaint should be allocated, and/or
- the timeframe in which the Scheme last visited the service provider, as this information may assist in deciding whether a site visit should be undertaken.

The presence or absence of a similar complaints history should not, in itself, be used to assess the veracity of the complaint, but may be used to inform:

- the risk rating of the complaint, which in turn will influence the priority in which the Scheme responds to the complaint, or
- where there is a ground for taking no further action, where the issues have been dealt with previously by the Scheme.

In assessing a service provider’s complaints history, officers should:

- identify if there is a relationship between the issues in the complaint and any previous complaints received about the service or its accreditation/quality reporting history
- use their experience and judgment to analyse what information is important and how the information should be used in the risk assessment, and
- consider that the number of complaints being made does not necessarily indicate a poor complaints history (it is more important to understand how the service provider responded to the complaints).

5.7 Assessing a service provider’s accreditation or quality reporting history

If a complaint relates to a residential care service provider, officers should assess the service provider’s accreditation history.

If a complaint relates to a community care service provider, officers should assess the service provider’s quality reporting history.

It is important to assess a service provider’s accreditation or quality reporting history to understand whether:
• the Quality Agency team have planned a visit in order to avoid, where possible, officers visiting on the same day
• the Quality Agency team has detected areas for improvement in the same areas as the issues in the complaint, or
• a referral to the Quality Agency team may be required.

**Important!** Information concerning a service provider’s complaints, accreditation and quality reporting history is protected information. This information should not be disclosed by an officer under any circumstances unless authorised under the Act and by a delegate.

### 5.8 Engaging with the service provider

The complaints management principles seek to ensure that officers advise service providers in a timely manner when the Scheme is planning to undertake a resolution process. Where a decision has not yet been made as to whether a resolution process should be undertaken, officers do not need to advise the service provider of the complaint, unless doing so would better inform the RARP.

**Important!** Before contacting a service provider, officers should confirm with a manager whether notifying the service provider will or is likely to:

• impact on the resolution of the issue, that is, an unannounced visit may be planned
• place the safety, health or wellbeing of the complainant (if any), a care recipient or any other person at risk, and/or
• place the complainant (if any) or a care recipient at risk of intimidation or harassment.

If a decision is made to contact the service provider, officers must be courteous and mindful of the resources available to the service provider to respond to the complaint. When requesting information officers should ensure that the request is clear, the timeframe for providing the information is reasonable and only information necessary to assess the complaint is requested.

For further information on advising service providers of a complaint refer to Section 11 of the *Complaints Principles 2014* (the Complaints Principles).

### 5.9 Engaging with care recipients or their nominated representative

If a complainant is raising concerns about the care or services someone else is receiving, the person receiving the services or their nominated representative must know about the complaint, unless exceptional circumstances exist.

Where appropriate, officers should promptly engage with the care recipient and/or their nominated representative. However, during the detailed assessment phase this might not always be possible, practical or appropriate. If a decision is made to engage directly with the care recipient and/or nominated representative, officers should:

• consider the most appropriate way to engage with the care recipient and/or their representative to minimise any distress, such as visiting the care recipient in person rather than making a phone call
• be conscious that care recipients with a cognitive impairment might still be able to express their views and engage in the resolution process, and
• be aware that, if it is not appropriate to engage with the care recipient, and there is a nominated representative or guardian for the care recipient, the nominated representative or guardian must be contacted.

Note: The care recipient’s nominated representative is the person nominated to the provider for this purpose under the Act.

Important! If an officer believes exceptional circumstance exist or is unsure as to whether to contact a care recipient and/or their nominated representative, they should first consult with their manager.

5.10 Engaging with other persons and/or organisations

At times during the detailed assessment phase it may be necessary to engage with other persons and/or organisations.

When engaging with others, officers must ensure they comply with the Act and the Scheme’s privacy and confidentiality requirements in relation to the use and disclosure of protected information.

Important! If an officer is unsure as to whether to contact others, they should first consult with their manager.

Activity 2: Risk assessment and resolution planning

5.11 Using the risk assessment and resolution plan (RARP) to progress the complaint

The RARP is designed to assist officers in considering the common risk elements related to each issue raised in a complaint and to assess the risks, along with other information collected, to decide whether:

• no further action should be taken on the issue(s)
• further support should be provided to facilitate an early resolution of the issue(s) within the detailed assessment phase
• the issue(s) should be progressed to the resolution phase, and/or
• the issue(s) should be referred to another organisation.

The risk rating in the RARP also assists managers in determining:

• an appropriate resolution approach
• the priority of the complaint and timeframe in which to respond to the complaint, and
• the level of oversight the manager should maintain.

5.12 Who completes the parts of the risk assessment and resolution plan (RARP)?

The RARP is drafted by officers undertaking the detailed assessment in consultation with a manager. Both officers and managers play a role in completing the RARP:
Part One - Risk Assessment, which outlines:

- all relevant information for a complaint gathered by an officer considered against five common risk elements in consultation with a manager, and
- an overall risk rating for the complaint - minor, moderate, major or significant - as assessed by a manager.

Part Two – Resolution Plan, which outlines:

- a resolution plan (early resolution, no further action, progress to resolution phase) developed by a manager, and
- where appropriate, a resolution approach recommended by a manager (conciliation, service provider resolution, investigation and/or mediation).

Note: Where a complaint has significant risks, managers may consult with their peers (also referred to as a panel decision or ‘a panel’) to decide the final risk rating.

5.13 When should the risk assessment and resolution plan (RARP) be updated?

Considering and assessing risk throughout the management of a complaint is vital to ensure the Scheme responds to complaints in a timely, efficient, proportionate and tailored manner. The RARP is designed to be a working document that is updated as circumstances change, regardless of the phase the complaint is in.

Officers are required to review, reassess and update the RARP when new and relevant information is received that could impact on a complaint’s risk rating and/or resolution plan.

Important! Reassessment might not change the overall risk rating or the resolution plan but it provides the rationale for decision making throughout the progress of a complaint.

5.14 What is a risk element?

Risk elements are components that indicate how an issue could impact on quality of care and effective complaint resolution. The following list is not exhaustive but reflects five common risks seen in complaints to the Scheme.

Important! This list should not limit the identification of other types of risks by officers.

The five common risk elements are:

- **Risk element one: Health and/or safety** - This risk element considers the physical and psychological impact of the issue/s on the care recipient and the intervention required in response to the impact.

- **Risk element two: Choice and/or dignity** - This risk element considers the frequency, type and outcome of the issue/s on the care recipient’s right to choice, respect and dignity, including the care recipient’s financial wellbeing.
• **Risk element three: Service and/or physical environment** - This risk element considers the frequency, type and outcome of the alleged less than ideal service delivery, and the physical environment in which the services are being delivered.

• **Risk element four: Contentious issue/s** - This risk element considers a range of factors that may make the issue/s contentious. Such factors include where the complainant’s expectations cannot be achieved by the Scheme, where there is interpersonal conflict between family members or public interest in the complaint.

• **Risk element five: Service provider history** - This risk element considers whether the service provider has any recent or related complaints, compliance, accreditation or quality reporting history and the service provider’s response where issues/concerns have been identified.

5.15 **How to complete the risk assessment?**

To assess risk using the RARP, officers should:

• consider all the information obtained during the intake and detailed assessment phases against each of the five common risks elements (and any other identified risk elements) and determine the grading of each of the risk elements

• consider the complaint as a whole and record an overall risk rating – minor, moderate, major or significant – based on an assessment of the common risk elements by a manager, and

• provide a succinct summary of the rationale for assigning the overall risk rating. For example, the weighting that was given to each of the risk elements by a manager.

The risk rating will be used, along with other information, to inform the:

• appropriate resolution approach

• priority of the complaint and timeframe in which to respond to the complaint, through considering capacity or priority factors, and

• level of oversight a manager should maintain.

If a manager has difficulty deciding the overall risk rating of the complaint or planning the resolution approach, they should consider:

• the complaints management principles in Chapter 3 and seek an approach that is most consistent with these principles, and/or

• consulting with their peers (a panel) to support consistent and robust decision making within and between state and territory offices.

**Note:** Where a complaint has significant risks, managers may consult with their peers (also referred to as a panel decision or ‘a panel’) to decide the final risk rating.

5.16 **How to determine an appropriate resolution plan?**
The RARP requires a manager to use the information in Part One - Risk assessment, along with other information collected, to decide whether:

- no further action should be taken - under paragraph 7(a) of the Complaints Principles 2014 (the Complaints Principles), on the basis of one of the statutory grounds in Section 8 of the Complaints Principles
- further support should be provided to facilitate an early resolution of the complaint to the satisfaction of the complainant within the detailed assessment phase - in line with paragraph 7(b) of the Complaints Principles
- the complaint should be progressed to the resolution phase - in line with paragraph 7(c) of the Complaints Principles
- a referral should be sent to another organisation – in line with paragraph 19 of the Complaints Principles.

Once the decision is made by a manager, the rationale and the information relied on in making the decision should be documented in the RARP. The manager’s decision should include the timeframe for the officers to action their decision. For guidance on determining the timeframe refer to Topic 5.19 Determining the complaint priority and when to commence the resolution approach.

5.17 Determining an appropriate resolution approach to recommend

If a decision is made to refer the complaint to the resolution phase, a manager may recommend a resolution approach - conciliation, service provider resolution, investigation or mediation.

To support the resolution of a complaint that is consistent with the complaints management principles managers should, in deciding on the most appropriate resolution approach consider:

- the desirability of resolving complaints as quickly as possible, as this is generally in the best interests of the care recipient, the complainant and the service provider
- that the focus of the resolution is to support, wherever possible, positive outcomes for care recipients
- that the resolution approach should be proportionate to the issues in the complaint
- the desirability of educating complainants (and care recipients) on their rights and responsibilities to empower them to make informed decisions and, where possible, resolve their concerns directly with the service provider
- the privacy status of the complaint – open, confidential, anonymous - noting anonymous complaints are not suitable for conciliation
- the relationship between the complainant and the care recipient, noting complaints made by staff members are not suitable for conciliation, and
- the willingness and capacity of the parties to engage in the proposed resolution approach.

In addition, to support timely and effective resolution of each of the complaint issues, managers need to consider:
• wherever possible, adopting one approach for a complaint (regardless of how many issues form part of the complaint)
• that multiple approaches might be necessary and if so should be planned to achieve the best outcome for the care recipient in the most proportionate, timely and appropriate way, and
• that the approaches may be flexibly applied and can involve different activities; for example, conciliation does not always require face-to-face meetings, it might simply involve making telephone calls to various parties, while investigation might require an unannounced site visit or the review of requested documentation.

The rationale for recommending a particular resolution approach should be documented in the RARP in reference to:

• the outcome of the risk assessment
• the privacy status of complainants and their relationship with care recipients
• the complainant’s desired outcomes
• where appropriate, care recipients’ and/or their nominated representatives’ views, and
• where relevant, interpersonal factors between care recipients and family members.

5.18 Which issues might be suitable for the different resolution approaches?

The following list of the types of issues that might be suitable for the various resolution approaches is a guide.

Conciliation
An issue might be suitable for conciliation if:

• the complainant and service provider are willing and able to participate in conciliation
• the complainant and service provider have agreed to the Scheme assisting the parties in conciliation, and
• a conciliated (agreed) outcome is likely to achieve a timely and positive outcome for the care recipient.

Note: There could be exceptional circumstances in which an issue that poses a significant risk to a care recipient might be most appropriately dealt with through conciliation; for example, some security of tenure cases where immediate action needs to be negotiated to ensure that the care recipient has access to services. If a conciliation approach is proposed in such circumstances this should be closely monitored by a manager.

Service provider resolution
An issue might be suitable for service provider resolution if:

• the Scheme is satisfied that the issues do not present any significant risk to the safety, health or wellbeing of care recipients
• the service provider is willing to act on the issues in the complaint
• the service provider agrees to provide a written resolution report to the Scheme, within the agreed timeframes
• the aged care service and, where relevant, service provider do not have a history of poor complaints management, and
• the complaint will be resolved as comprehensively and effectively by the service provider as it would have been if the Scheme investigated or conciliated the issue.

Note: While it is not necessary to secure the agreement of the complainant to resolve a complaint through service provider resolution, where appropriate, this should be discussed with the complainant.

Investigation
An issue might be suitable for investigation if:

• the issues in the complaint raises significant concerns about whether a service provider is meeting its responsibilities under the Act. For example, there are significant concerns about the safety, health and/or wellbeing of a care recipient/s
• the issues in the complaint cannot be resolved through non-investigative processes and, considering all the circumstances and information available, investigation of the issue/s is warranted.

Mediation
An issue might be suitable for service provider/complainant initiated mediation if:

• the parties agree to mediation and are willing to participate
• one (or both) of the parties agree to meet the costs of mediation, and
• there are no issues which present a significant risk to a care recipient or suggest non-compliance with its responsibilities under the Act by a service provider.

5.19 Determining the complaint priority and when to commence the resolution approach

The priority of the complaint will guide the timeframe in which officers commence the resolution approach.

In setting the timeframe for commencing a resolution approach the manager should consider:

• whether the resolution timeframe will impact on the care recipient and if so, the likely gravity of the impact
• whether the resolution timeframe will impact on the Scheme’s capacity to achieve timely resolution of the complaint, and
• the ability of officers to respond to complaints considering their capacity and other factors such as workload.
Activity 3: Supporting early resolution

5.20 Supporting early complaint resolution in the detailed assessment phase

While the majority of complaints suitable for early resolution will be resolved during the intake phase, there may be occasions when further information is received (after the intake phase) that indicates that the complaint may be suitable for early resolution during the detailed assessment phase.

In line with the Scheme’s objectives, timely and appropriate complaint resolution may often be achieved by officers supporting complainants to resolve their complaints directly with service providers – without the Scheme’s ongoing formal involvement.

Complaints are only suitable for early resolution if the complainant agrees that the ongoing involvement of the Scheme is not required.

**Important!** If an officer is unsure about whether a complaint should be resolved and finalised during the detailed assessment phase, they should immediately seek the advice of a manager.

**Important!** If managers are unsure about whether it is more appropriate to take no further action or progress the complaint to the resolution phase they should consider:

- the complaints management principles in Chapter 3: Complaints Management Principles and seek an approach that is most consistent with these principles, and/or
- consulting with their peers (also referred to as a panel decision or ‘a panel’) to support consistent and robust decision making within and between state and territory offices.

5.21 Which complaints are suitable for early resolution?

A complaint may be suitable for early resolution if:

- complainants decide that their complaint can be promptly resolved without the Scheme commencing a formal resolution process (conciliation, service provider resolution, investigation and/or mediation)
- the issues do not present a significant risk to the safety, health or wellbeing of a care recipient and is not likely to be contentious
- the aged care service and, where relevant, service provider do not have a history of poor complaints management
- the issue/s in the complaint does not raise significant concerns about whether a service provider is meeting its responsibilities under the Act, and
- based on initial discussions with the complainant and service provider, it appears that the parties do not have entrenched positions and are amenable to discussion and negotiation.

Officers can support early resolution of complaints by:
• assisting complainants to clarify the issues in their complaint and identify the outcomes sought to resolve their complaint
• providing routine information to complainants and/or service providers on the rights and responsibilities of service providers and care recipients under the Act
• assisting complainants and service providers to communicate with each other; for example, assisting the parties to gain an understanding of each other’s point of view, and
• assisting the parties to the complaint to generate ideas for resolving the complaint.

5.22 What support can be provided and when can the complaint be finalised?

For supporting the early resolution of a complaint and finalising the complaint during the detailed assessment phase, the same principles and guidance apply as for the intake phase (refer to Topic 4.41 How can support for early resolution be provided?).

5.23 What to do when early resolution is not successful

When early resolution of a complaint is not successful in the detailed assessment phase, officers should immediately advise a manager so a decision can be made as to whether:

• a different resolution approach would result in a more timely, proportionate resolution of the complaint, or
• no further action should be taken under paragraph 7(a) on one or more of the grounds set out in Section 8 of the Complaints Principles.

Note: Managers’ decisions and the rationale supporting their decisions should be documented in the RARP (refer to Activity 2: Risk assessment and resolution planning).

Activity 4: Taking no further action

5.24 Who may decide to take no further action?

Whilst a complaint is in the detailed assessment phase, officers should consider whether grounds for taking no further action on complaint issues exist and if so:

• whether no further action should be taken, or
• whether the Scheme should continue to progress the complaint.

Delegates have the discretion to decide to take no further action on an issue raised by a complainant and thus end a complaint.

Even if there is a basis for taking no further action on one of the grounds in section 8 – for example, that the care recipient does not wish the issue to be considered – the delegate should consider the individual merits of the complaint, public interest considerations and so on to decide whether this is the most appropriate action in the circumstances. One of the other steps in section 7 (i.e. quickly resolving the issue or undertaking a resolution process) might be more appropriate.

In considering whether no further action should be taken on complaint issues, officers and delegates must:
• ensure that complainants have been given the opportunity to provide to the Scheme any information they may have which might indicate that the process should continue – regardless of whether the matter has been dealt with previously
• identify whether there is any risk to the safety, health or wellbeing of a care recipient that indicates that the process should continue, and
• identify whether there are other relevant considerations the delegate should take into account when making a decision about whether to end on this basis.

Important! Managers are responsible for ensuring they have the appropriate delegated authority to make decisions under the Act.

As a decision to take no further action affects the right of a complainant to have the Scheme commence a resolution process, a delegate should consider:

• the complaints management principles in Chapter 3: Complaints Management Principles and seek an approach that is most consistent with these principles, and/or
• consulting with their peers (also referred to as a panel decision or ‘a panel’) to support consistent and robust decision making within and between state and territory offices.

Important! A decision to take no further action is an examinable decision by the Aged Care Commissioner (ACC). Officers must ensure that the complainant is advised of the decision, the reasons for the decision and the complainant’s right to seek reconsideration by the Scheme or examination by the ACC.

5.25 The grounds for taking no further action during the detailed assessment phase

A delegate may decide to take no further action under paragraph 7 (a) of the Complaints Principles, if the delegate is satisfied that one of the following circumstances under Section 8 applies:

• The issue was not raised in good faith.
• The issue has been, or is, the subject of a legal proceeding.
• The issue has been dealt with under the Complaints Principles 2014, Complaints Principles 2011 or the Investigation Principles 2007 (the Investigation Principles).
• The issue relates to an event:
  • that occurred more than one year before the complaint was given to the Scheme, and
  • that is not ongoing.
• The issue is subject to a coronial enquiry.
• A care recipient named in the complaint does not wish the issue to be considered by the Scheme.
• The issue is better dealt with by another organisation.
• Having regard to all the circumstances, a resolution process in relation to the issue is not warranted.
Further guidance on each of the grounds for taking no further action without commencing a resolution process is outlined below.

5.26 The issue was not raised in good faith

The role of officers is not to judge the motivations for which a person may have made a complaint to the Scheme, but there are some limited circumstances where information may not have been given by the complainant in good faith. Where officers believe this may be the case, they should raise this matter with a manager who will seek further advice from the department’s legal advisors.

An example of where an issue may not be made in good faith may be where a lawyer for one service provider makes a complaint about another service provider purely for the purposes of uncovering information that might be useful in future private legal proceedings between the two service providers. In this case, the delegate may decide that the complaint was not made in good faith because it was made for the purpose of civil legal action, rather than a concern about a care recipient.

5.27 The issue has been, or is, the subject of a legal proceeding

Where officers are advised, or become aware through their inquiries, that an issue in the complaint is subject to legal proceedings, officers should immediately advise a manager.

A delegate may decide to take no further action on the basis that the actions by the Scheme may interfere with the legal proceeding (this includes where the police are considering laying charges).

5.28 The issue has previously been dealt with by the Scheme

Where an issue in the complaint has been dealt with under the Complaints Principles or the Investigation Principles the delegate may decide to take no further action in respect to that issue.

An example is where the outcome from a resolution process found that the care recipient was required under the Act to pay certain care fees and two months after the decision was made the care recipient seeks to lodge another complaint regarding exactly the same issue. In such circumstances, the delegate may decide to take no further action.

5.29 The issue relates to an event that occurred more than one year ago and is not ongoing

Where an issue relates to an event that occurred more than one (1) year before the complaint was given to the Secretary and is not ongoing, a delegate may decide to take no further action.

The following is an example of when this may occur:

If the issue raised by the complainant relates to air conditioning that was broken on a particular day over a year ago, the delegate may decide that it is not warranted to apply a resolution process because it was an isolated event that occurred over a year ago and is not ongoing (for example, because the service has since replaced the air conditioning system).

The following is an example of where delegates may apply their discretion and decide that a resolution process should be commenced:

A person might make a complaint relating to an event that occurred more than one year ago in circumstances where the care recipient is deceased. In this case there may be
valid reasons why the complaint is being made after more than one year (for example, the family has been grieving and has not yet felt ready to make a complaint). If the issue raised was about the care recipient’s wound management, and the complainant is concerned that similar problems might be recurring for other care recipients, then this may be a circumstance in which the delegate may choose not to exercise their discretion to take no further action, and instead decide to undertake a resolution process in relation to the issue.

5.30 The issue is subject to a coronial inquiry

If officers become aware that an issue is subject to a coronial inquiry, the delegate may decide to take no further action.

An example of this might be where someone alleges that the failure to administer correct medication caused the death of a family member. Determining a person’s cause of death is a coronial matter and the delegate may decide to take no further action in respect to that issue.

If there are issues about care that are not directly related to a coronial inquiry (for example, where someone has concerns about the continence management of a care recipient immediately before their death) such issues may undergo a resolution process in parallel with a coronial inquiry.

Important! Managers should exercise caution when considering whether issues such as these can be managed by the Scheme and should seek the advice from their peers or the department’s legal advisers about the appropriate approach.

5.31 The care recipient named in the complaint does not wish the issue to be considered

Where care recipients (or if care recipients lack capacity, their nominated representatives) to whom issues relate advise the Scheme that they do not want the Scheme to commence a resolution process, the delegate may decide to take no further action.

In most cases, the wishes of care recipients or their nominated representatives should be respected and the case should be finalised, unless there are ongoing concerns for the safety, health or wellbeing of the care recipient and/or other care recipients at the service.

An example is where a friend visits a care recipient and makes a complaint that the care recipient smelt of urine and was not having his incontinence pads changed regularly. The officer might raise the issue with the care recipient or his nominated representative who advises that he does not have concerns about the management of his continence and does not wish to have his continence needs examined by the Scheme. On the basis of the express wishes of the care recipient the delegate may exercise their discretion to take no further action in relation to the complaint.

Where ongoing safety, health or wellbeing concerns exist the delegate may decide to continue to deal with the complaint. In such circumstances, the confidentiality of the care recipient should be respected and care should be taken to minimise any distress the Scheme’s actions may cause the care recipient.

5.32 The issue is better dealt with by another organisation

A delegate may decide to take no further action on an issue, if the issue could be more appropriately dealt with by another organisation, such as the Australian Aged Care
Quality Agency (Quality Agency), the Australian Health Practitioner Regulation Agency, the coroner, health care complaints bodies or the police.

An example of when this might occur is where a complaint relates to poor quality of food but assessment of the issue identifies that it is a food safety issue that might be more appropriately dealt with by the relevant local council or food safety authority.

5.33 Having regard to all circumstances, a resolution process in relation to the issue is not warranted

A delegate can decide to take no action on the basis that a resolution process is not warranted.

An example of when this may occur is where a complainant previously raised six issues relating to the care of a care recipient who is deceased. The Scheme completed a resolution process in relation to all six of these issues and identified that the service provider had met its responsibilities under the Act in respect of the care recipient. If the complainant later raises a seventh issue which is minor, specific to the care recipient (for example, the service provider lost the care recipient’s magazines) and for which there would be no public interest advanced in undertaking a resolution process, the delegate may decide that a resolution process is not warranted in relation to the issue.

5.34 Advising the parties to the complaint of the decision to take no further action

Where a decision is made by a delegate to take no further action on an issue the officer must ensure the complainant is promptly advised in writing of:

• the decision
• the reason for the decision
• the complainant’s review rights, and
• any other relevant feedback where it is appropriate to do so.

Where service providers, care recipients and/or their nominated representatives have been contacted in the course of assessing a complaint, feedback may also be provided confirming the complaint is being finalised.

Activity 5: Referral to other areas or organisations

5.35 When the Scheme may refer information or complaint issues

If sufficient information is obtained to indicate that information received may assist another organisation or another area within the department perform its regulatory function, a delegate may authorise the release of the information in accordance with the requirements related to the disclosure of protected information, personal information and confidential information.

Note: Information referrals would most commonly be made during the detailed assessment phase; however, they can be made at any time throughout the complaints management process.

Referrals of information or complaint issues can be made to areas or organisations including:
External referrals
- the Quality Agency
- state and territory government
- the Public Health Unit
- the police
- the Coroner
- the Australian Health Practitioner Regulation Agency
- health care complaints bodies.

Internal referrals
- other regulatory areas, including compliance and prudential areas, within the department
- the audit and fraud area of the department.

Important! Managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants/nominated representatives that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Scheme.

5.36 Releasing protected information outside of the department

There are restrictions on releasing information held by the Scheme to other organisations.

Much of the information officers deal with is protected information under Division 86 of the Act. Protected information is defined in Section 86-1 of the Act as information that was acquired under, or for the purposes of, the Act and the information:

- is personal information
- relates to the affairs of an approved provider, or
- relates to the affairs of an applicant for approval as a provider of aged care under the Act or for a grant.

Division 86 of the Act sets out the requirements for disclosing protected information to a person outside of the Act. In particular, Section 86-2 describes a general rule; this prohibits a person from using or disclosing protected information acquired by that person in the course of performing duties or exercising powers or functions under the Act.

However, Subsection 86-(2)(2) and Section 86-3 allow protected information to be used in certain ways and disclosed in certain circumstances; such that a delegate may authorise the release of the information in accordance with Division 86 of the Act.

Important! Officers must not release protected information to a person or body external to the department without written approval from a delegate to release the information.

Note: Officers should obtain a good understanding of the ‘protected information’ provisions of the Act.

If managers are unsure about releasing information outside of the Scheme, they should consider:
the principles in Chapter 3: Complaints Management Principles, and seek an approach that is most consistent with these principles

- consulting with their peers (a panel) to support consistent and robust decision making within and between Network offices.

5.37 Consultation required for referrals outside of the Scheme

Where a referral to AHPRA (or the HCCC), the Police, Coroner or other law enforcement body is being considered, Legal Services must be consulted. In addition, the Clinical Unit must be consulted about a referral to AHPRA (or the HCCC).

In all circumstances the instrument of release must be cleared by Legal Services, before the delegate authorises the release of information.

Consultation with the Clinical Unit and Legal Services is facilitated through the Aged Care Complaints Branch. Please consult the Scheme Guidance team.

5.38 Releasing information to other areas within the department

There are no restrictions to releasing information held by the Scheme to other areas within the department. In releasing information delegates should ensure that they only provide information relevant to assisting the area perform its regulatory functions.

Note: The requirements regarding the release of protected information under Division 86 of the Act only apply to the release of information outside the department.

5.39 What happens to the complaints resolution process if a referral is made?

If a complaint issue is referred to another organisation:

- the referral does not preclude the Scheme continuing to deal with the issue/s, or
- a delegate may decide to exercise their discretion to take no further action under paragraph 8(g) of the Complaints Principles.

Note: If systemic concerns arise during a resolution process that are appropriate for the Quality Agency to consider, this does not preclude the Scheme from seeking an outcome for the issues raised by the complainant and specific to the care recipient.

If a referral is made to another organisation it may, at times, not be appropriate for the Scheme to commence or to continue a resolution process if it is likely to interfere with their processes (for example, the police).

5.40 Informing complainants and service providers about referrals

When making referrals, officers must think carefully about whether or not the complainant and the service provider should be informed.

Officers need to consider whether there is any reason not to advise the service provider or the complainant of a referral. Such situations include where:

- advising either of the parties could hinder the processes of the referral organisation, for example, the police or Quality Agency, or
• advising the parties could breach requirements related to the disclosure of information, for example, informing the complainant about the affairs of an approved provider or disclosing personal information.

**Important!** Officers must not advise the parties where the Scheme is making a type three (3) – assessment contact or type four (4) – review audit referral to the Quality Agency, if this could impact on the capacity of the Quality Agency to effectively undertake its own processes.

**Activity 6: Correspondence about the progress of the complaint**

**5.41 Contact with the complainant**

Officers should contact the complainant during the intake and detailed assessment phases to confirm and agree on the issues which will form part of the complaint.

Accurate understanding of the issues raised by the complainant, identifying the complainant’s desired outcomes and informing the complainant of the Scheme’s processes enables officers to set shared, realistic expectations of how the complaint will be progressed.

Where a complaint cannot be resolved during the detailed assessment phase, it is important officers ensure the issues are confirmed with the complainant before working with them to resolve them in the resolution phase.

**5.42 How to get the issues right**

Individual complaints may contain one or more issues. It is critical to the success of the complaints management process to correctly identify and articulate the complaint issues, particularly when they progress to the resolution phase. It may be challenging to accurately draw out this information; however, priority should be given to this task.

Issues should be expressed in the complainant’s own words (as much as possible) and be specific. For example, “over the last two months, staff have failed to bathe and dress Mrs Kelly in time to attend her regular exercise class”.

**Important!** It is the role of officers to assist complainants to articulate their issues, to confirm the issues but not to influence the issues based on their own interpretation (for example, based on knowledge of the legislation).

Once the issue/s has/have been confirmed orally, officers must send an acknowledgement and confirmation of issues letter to the complainant. This letter provides the complainant with an opportunity to inform the Scheme if their issues have not been correctly identified.

**Note:** Any change to how an issue is expressed must be accurately recorded on the Scheme’s official information management system and in the RARP.

**Important!** The advice of a manager should be sought if an officer is unsure how to express the issues in the confirmation letter.
5.43  When to send a feedback letter

**Early resolution**

As a general rule there is no requirement to send correspondence to a person confirming the finalisation of a complaint through early resolution (under paragraph 7(b) of the Complaints Principles), however a letter should be sent advising complainants that if they require any future assistance from the Scheme they can contact the Scheme at any time.

Where specific written correspondence is requested, the officer should seek the advice of a manager as to the nature of the correspondence to send.

**No further action**

It is a requirement under Section 16 of the Complaint Principles that the Scheme will confirm in writing to the complainant that no further action will be taken unless the complainant advises the Scheme they do not wish to receive correspondence, or if the complaint was received anonymously.

5.44  When to send the acknowledgement and confirmation of issues letter

After it is decided that the complaint is being referred to the resolution phase, officers should send the acknowledgement and confirmation of issues letter as soon as reasonably practical. As a general guide, this should generally be done within seven (7) days of the date of the decision to refer the complaint to the resolution phase.

**Activity 7: Workflow to the resolution phase**

5.45  Tasks to do once the RARP has been completed

Once the manager has decided the complaint should progress to the resolution phase and the RARP has been completed, officers should:

- send a letter to the complainant and/or the service provider confirming the issues
- check that all relevant information collected and provided is clearly documented
- check that all decisions made in respect to the complaint are clearly documented, and
- workflow the complaint to a manager for quality assurance before the complaint workflows to the resolution phase.

5.46  Who workflows the complaint?

As a general rule, officers who have undertaken the assessment should workflow complaints to their managers so a quality assurance check can be performed.

Managers should workflow the complaint to the resolution phase within the timeframe set out in the resolution plan, once they have completed a quality assurance check, to ensure:

- that a letter has been sent to the complainant acknowledging and confirming the issues
- all relevant information has been collected, and
- all decisions made have been clearly documented – this would generally be set out in the RARP.
Chapter 6: Resolution Phase

This chapter sets out the key activities to be undertaken by officers during the resolution phase, the third of the four phases of the complaints management process.

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**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.

**Note:** Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.

**Note:** A resolution process describes the four phases of the complaint management process; intake, detailed assessment, resolution, and outcome.
Overview of the resolution phase

6.1 Progressing a complaint in the resolution phase

During the resolution phase, a resolution process is applied either in response to a complaint or where the Scheme identifies an own initiative concern.

A complaint (or issue within a complaint) will progress to the resolution phase where:

- it cannot be resolved to the satisfaction of the complainant through early resolution (refer to Chapter 4: Intake Phase and Chapter 5: Detailed Assessment Phase), or
- further action is required or none of the statutory grounds on which the Scheme may decide to take no further action apply (refer to Chapter 5: Detailed Assessment Phase).

An own initiative concern may result from the Scheme receiving information which gives rise to an officer having sufficient concern that a resolution process is warranted. An own initiative resolution process may be commenced in order to determine if a service provider is meeting its responsibilities (refer to Chapter 4: Intake Phase).

To commence the resolution phase a manager will assess whether the recommended resolution approach identified during the detailed assessment phase (refer to Chapter 5: Detailed Assessment Phase) is appropriate and develop a resolution plan to progress the complaint. As a complaint progresses and circumstances change, officers, in consultation with a manager, must adjust and update the risk assessment and resolution plan (RARP). Officers will document the resolution process in relevant reports including in the detailed resolution report (DRR).

If during the resolution process officers identify that it is appropriate to issue directions to the service provider, in most circumstances the service providers will receive a Notice of Intention to Issue Directions (NIID) in the first instance.

6.2 Complaints management principles relevant to the resolution phase

In responding to complaints during the resolution phase, officers should have particular regard to the complaints management principles set out below. Officers will:

- treat complaints with an open mind and will not pre-determine the veracity of a complaint based on any previous interactions with any parties to the complaint
- where appropriate, provide the parties to a complaint with a reasonable opportunity to provide relevant information before key decisions are made
- where appropriate, seek to determine the wishes of the care recipients and/or their nominated representatives
- support open and timely communication between the parties to a complaint, unless information must be limited for confidentiality, privacy or other reasons
- actively monitor the progress of complaints and instigate action to resolve complaints that are not progressing within reasonable timeframes
- provide all parties to a complaint with an opportunity to comment on any adverse findings or evidence before finalising the resolution process
• attempt to resolve complaints in a way that will achieve positive outcomes for care recipients in the most timely, proportionate and appropriate way
• use the Scheme’s Guidelines and RARP to identify risk and support the timely, proportionate and appropriate resolution of complaints
• continue to review the risk profile and resolution approach for a complaint in response to new and relevant information
• consider the capacity and wishes of the complainant, care recipient and/or representative and service provider in determining the most appropriate resolution approach
• where possible, seek to foster improved relationships between complainants and service providers who have an ongoing relationship
• exercise judgment and discretion and be responsible and accountable when applying the complaints management principles to processes
• exercise skill and diligence to ensure that information and advice provided, upon which the recipients are likely to rely, are accurate
• seek out and draw on information from diverse sources and use experience and common sense to analyse what information is important and how it should be used
• systematically analyse information to identify relationships between factors, identify problems, assess their significance and take appropriate action to resolve them
• seek to draw accurate conclusions by clarifying information to avoid unwarranted assumptions
• work within the scope of their delegation as it applies to the Scheme
• seek advice from supervisors if they are unsure about the application of policies and procedures or how to manage an issue in accordance with the complaints management principles, and
• use their peers and the department’s broader resources to support accurate, objective, reasonable and consistent decision making.

6.3 Role of officers during the resolution phase

During the resolution phase, officers will consider:

• the different approaches that can be used as part of a resolution process
• how to commence and conduct a resolution process
• how to review the approach and make adjustments depending on the progress of the complaint
• how to document the outcomes of a resolution process, and
• exercising their role of managers and delegates in the resolution process.

6.4 Manager involvement throughout the resolution phase
Managers are expected to provide oversight during the resolution phase. At a minimum they are expected to:

- assist officers on an 'as-needs' basis including when an officer needs to debrief and seek guidance or advice
- consult with their peers and other sources of information in assisting the officer to formulate their approach in relation to a complaint
- review the reasoning for, and agree to the proposed approach to, any site visit
- review and agree to any planning documents relating to the resolution process (for example, conciliation plan or investigation matrix), including any change in the RARP, and
- assist officers as needed to review information, develop a Notice of Intention to Issue Directions Report (NIIDR) and the DRR.

The extent of manager involvement in any particular complaint will depend on the nature of the complaint, the issues identified and the experience of the officers involved. The level of manager involvement should be discussed between the manager and the officer to whom the complaint is allocated and reviewed if circumstances change.

6.5 Delegate’s role in the resolution phase

The delegate might be the manager overseeing the resolution process or a person who has not been involved in the management of the case. The key role of the delegate is to:

- provide feedback to the officer regarding any changes that are required in order to inform their decision making process
- review and approve the decision to take no further action
- review and approve the NIIDR (if any) once they are satisfied
- sign the letter accompanying the NIID (if any) once they are satisfied, and
- review and approve the DRR once they are satisfied.

Important! In some cases, delegates may need to seek the advice of their peers (a panel) to support accurate, objective, reasonable and consistent decision making.

6.6 What are the resolution approaches in the resolution phase?

A resolution approach is any type of formal resolution that is facilitated or undertaken by the Scheme (other than supported early resolution) to resolve a complaint issue.

The resolution approaches available to the Scheme to facilitate the resolution of a complaint are:

- **Conciliation** – this involves officers assisting the parties to work together to discuss the issues and reach agreement. This could be via phone discussion or through meetings between the parties. Following a successful conciliation process, the delegate may end the resolution process on the basis that the parties have reached agreement.
• **Service provider resolution** – this involves the Scheme referring a complaint (or issues within a complaint) to a service provider to resolve through its own complaints management processes. A delegate may end the resolution process if satisfied with the outcome, taking into account the views of the complainant and care recipient (where appropriate).

• **Mediation** - this involves an independent mediator working with the complaint parties to discuss the issues and attempt to reach agreement or an otherwise acceptable outcome. If a mediator is engaged, it will be at the cost of the service provider and complainant. A delegate may end the resolution process on the basis that the parties are undertaking mediation.

• **Investigation** – might be required where it is determined that other approaches are not appropriate, possible or likely to achieve a positive outcome and that further information is required to enable this. Information may be obtained from documents or talking to relevant complaint parties, other persons and organisations, including through site visits. A delegate may end the resolution process on the basis of the findings.

### 6.7 Key activities in the resolution phase

In undertaking a resolution process, officers can undertake a range of activities relevant to the resolution approach adopted to assist them with reaching an outcome.

• **Activity 1: Determining the resolution approach** – Officers must determine the most appropriate resolution approach on receipt of recommendations from a manager during the detailed assessment phase, and where the approach needs to be reassessed during the resolution process. Throughout the resolution process officers should consider any changes that may affect the adopted resolution approach, outcome or risk profile, such as changes that affect a care recipient or the service provider.

• **Activity 2: Contacting the complaint parties** – Once officers have reviewed all background material they should contact the complainant and, where appropriate the service provider and care recipient or their representative, to discuss the issues.

• **Activity 3: Planning the resolution approach** – Officers should review the RARP and, in consultation with a manager, plan and document the resolution approach.

• **Activity 4: Collecting information** - Officers may collect information from complainants, service providers and other parties including care recipients or their nominated representatives.

• **Activity 5: Undertaking a site visit or onsite meeting** – Officers may visit the site where services are provided (a residential care service or the residence of a home care recipient) or the service provider’s offices to collect information. Officers may
also meet with the service provider or a care recipient face-to-face to discuss the resolution process.

- **Activity 6: Assessing collected information** – Officers must assess sufficient information collected during the resolution process to reasonably satisfy a delegate that a fact has been established or about the most probable version of events.

- **Activity 7: Referrals to other areas or organisations** – A manager or delegate may authorise the release of information to assist another organisation or another area within the department to perform its regulatory function. A referral does not prevent the Scheme from continuing with the resolution process.

- **Activity 8: Documenting the resolution process** - Officers must document the resolution process in appropriate planning documents, reports and notices to inform the delegate’s decision making process.

The resolution approaches and activities described in this chapter refer to dealing with complaints; however, these apply equally to the Scheme undertaking an own initiative resolution process.

**Activity 1: Determining the resolution approach**

6.8 **Whether to adopt one or more resolution approaches?**

The Scheme can adopt one or more resolution approaches for dealing with a complaint or an issue within a complaint. Officers should seek to resolve the issues in the complaint using one resolution approach where possible as this supports the efficient use of the time of the complainant, service provider and Scheme.

The choice of the resolution approach rests with a manager, where:

- they should seek to adopt one approach for a complaint where possible (regardless of how many issues there are in the complaint), and
- they can decide to use multiple approaches or adjust the original recommended approach in order to achieve a better outcome for the care recipient. In this circumstance the manager should seek to achieve timely and proportionate resolution that equitably and efficiently uses the resources of the service provider and Scheme.

6.9 **What to consider in determining the appropriate resolution approach?**

To determine the most appropriate resolution approach at the commencement of or during the course of the resolution process, officers in consultation with a manager will consider:

- the desirability of resolving complaints as quickly as possible if this is clearly in the best interests of care recipients, complainants and service providers
- supporting positive outcomes for care recipients
- ensuring that the resolution approach is proportionate to the issues in the complaint
• the privacy status of the complaint: open; confidential; or anonymous
• the relationship between the complainant and the care recipient
• the willingness and capacity of the parties to engage in the proposed resolution approach
• the nature of the issues raised and the identified risks
• the desirability of educating complainants (and care recipients) on their rights and responsibilities so they are empowered to make informed decisions and, where possible, resolve their concerns directly with the service provider, and
• the most appropriate activities to apply within a resolution approach. For example, an investigation does not always involve the same activities – sometimes it might involve a site visit but for other cases it might simply involve talking to the parties on the phone and requesting and reviewing documents.

6.10 What information should be used to determine the most appropriate resolution approach?

Officers should use a range of information to determine the most appropriate resolution approach, including:

• the RARP to familiarise themselves with the complaint
• background information collected during the intake and detailed assessment phases including file notes of discussions and reports that have informed the risk rating and recommended resolution approach
• the recommendations made at the end of the detailed assessment phase and the rationale for those recommendations to make considered judgments about whether the recommended approach continues to be appropriate (refer to Chapter 5: Detailed Assessment Phase)
• the history of the service provider, and
• additional information collected through contacting, where appropriate, the complainant, the care recipient (or representative) and/or the service provider to fill in any gaps that may assist to determine the most appropriate approach.

Officers in consultation with a manager will determine the most appropriate resolution approach and seek manager approval of the recommended or adjusted resolution approach.

Important! If significant new information, or a change in circumstances, arises during any resolution process regardless of approach used, officers should immediately discuss the issue with a manager as the RARP may need to be adapted or changed.

Important! Where managers decide to adjust an approach, the rationale for their decision should be documented in the resolution plan.
6.11 Ongoing review of the appropriate resolution approach through the RARP

Throughout a resolution process officers should consider any changes which may impact:

- the resolution approach being adopted
- the outcome of the resolution, and/or
- the risk profile of the case.

Officers should review and reassess the RARP when new information is received. For example where:

- new information indicates a change in the impact on the care recipient
- a process breaks down – such as the complainant, care recipient or service provider advising that they no longer wish to participate in conciliation
- the health status of the care recipient changes rapidly, or
- compliance action is initiated against the service provider (possibly as the result of another case) or if other contentious matters are identified.

Any changes that affect the risk profile or resolution approach must be updated in the RARP. The revised plan must be discussed with and approved by a manager.

Activity 2: Contacting the complaint parties

6.12 Making contact with the complainant

Once officers have reviewed all background materials, they should contact the complainant to:

- introduce themselves
- re-confirm the complainant’s agreement to the issues as set out in the letter from the Scheme confirming the issues during the detailed assessment process (refer to Chapter 5: Detailed Assessment Phase), and
- discuss the proposed resolution approach.

If a complainant does not agree with the issues the Scheme is seeking to confirm, officers must invite the complainant’s feedback and send additional correspondence confirming the issues agreed by the complainant.

Important! This additional letter must be sent by registered mail so that the date of the advice being received is documented by the Scheme; an email can be sent immediately but must be followed by registered mail for confirmation of receipt.

6.13 Making contact with the service provider

Officers should make contact with the service provider by telephone to follow up on any previous discussions that may have been undertaken during the intake/detailed assessment phase. This is, unless a decision has been made to not contact or delay contacting the service provider during the resolution process due to the resolution approach being adopted and the issues within a complaint.
Service providers should be informed of the issues in a complaint through a letter confirming the issues that the Scheme will commence a resolution process about. An exception would be where informing the provider is likely to impede the resolution process or place care recipients, complainants or others at risk. This is particularly important where an unannounced site visit may be a part of a resolution process.

**Note:** Informing the service provider about the complaint issues and resolution process is an important procedural fairness step and it enables a service provider to be fully involved in the complaint.

### 6.14 Making contact with the care recipient or their representative

Where the complainant is not the care recipient in relation to the complaint issues, officers should consider the appropriateness of contacting care recipients while planning the resolution approach.

**Important!** Officers should consult with a manager before contacting care recipients or their nominated representatives.

### Activity 3: Planning the resolution approach

#### 6.15 Planning how to apply the resolution approach

The first important step for all resolution approaches is to plan how the approach will be applied. Planning can save time and resources as the conciliation, service provider resolution, mediation, or investigation proceeds. This is discussed in relation to each of the different resolution approaches in the following topics.

Officers must document the resolution process and outcomes in appropriate planning documents, reports and notices; this includes completing a Detailed Resolution Report (DRR) - an internal report used for the management of cases (Refer to Activity 8: Documenting the resolution process).

### Resolution approach - Conciliation

#### 6.16 What does conciliation involve and what is the potential outcome?

Conciliation involves officers assisting the parties to work together to discuss the issues and ideally reach agreement.

Following a successful conciliation process, the delegate will end the resolution process on the basis that the parties have reached agreement. As agreement is reached between the parties and solutions are not directed by the Scheme, the Scheme will not monitor the resolution outcomes or enforce these solutions. However, complainants may come back to the Scheme if they continue to have concerns.

If agreement cannot be reached between the parties:

- a manager may decide to adopt an alternative approach with the aim of bringing the resolution process to an end, or
- a delegate may decide to end the resolution process.

The outcome of the resolution process and agreed solutions will be described in feedback provided to both parties.
6.17 What types of issues are suitable for conciliation

An issue may be suitable for conciliation if:

- the complainant and service provider are willing and able to participate in the conciliation process
- the complainant and service provider have agreed to the Scheme assisting them to conciliate the issue/s, and
- a conciliated (agreed) outcome is likely to achieve a timely and positive outcome for the care recipient.

6.18 Role of the officer in conciliation

Officers can assist complainants and service providers to resolve complaints and reach satisfactory outcomes by:

- asking questions to clarify the issues
- advising the complainant and service provider of their rights and obligations
- facilitating discussions, and
- if requested, and appropriate, providing options and making suggestions to help the parties resolve the issue and reach agreement.

Officers cannot allow the parties to agree to something that is contrary to a service provider’s responsibilities under the Act or the Complaints Principles 2014 (the Complaints Principles). However, the parties can agree to something that is not contrary to the legislation but is simply not detailed in the legislation.

For example: an officer could not allow the parties to agree to share the cost of toiletries such as toothbrushes, soap and toilet paper for a care recipient because the service provider’s responsibilities include the provision of toiletries for all care recipients who require them. The parties could agree that the service provider will provide a care recipient with an extra two pieces of fruit every afternoon even if there is nothing expressed about this in the legislation.

6.19 Planning conciliation

At the commencement of a conciliation process, officers must, in consultation with a manager, plan their approach to conciliation. For example, officers might consider:

- the expectations of the parties
- any risks in bringing the parties together
- any special needs of the parties
- the best way to progress the conciliation, and
- a review of relevant information or documents obtained from the parties to assist in the planning process.

Planning should be done in consultation with all the parties to the complaint because their views will influence the best approach. This will be a fluid process that requires officers to be adaptable.
Officers should reflect their planning in the Conciliation Plan. This is an internal document used for the management of cases.

6.20 Methods for conciliation

Depending on the parties involved and the nature of the complaint, officers can facilitate the conciliation process by any of the following methods:

- facilitating a face-to-face meeting between the complainant and service provider
- facilitating a teleconference meeting between the complainant and service provider, or
- talking to the complainant and service provider separately.

It is not always necessary or appropriate for officers to organise a face-to-face meeting in order to facilitate a conciliation resolution process.

**Important!** If during the course of conciliation officers are unsure whether something is within a service provider’s responsibilities under the Act and Aged Care Principles, or they require clarification on a matter raised, they should pause the meeting and seek advice from a manager.

6.21 Confirming the engagement of all parties

Officers should ensure that the resolution approach adopted has been discussed with all parties and that the parties are willing to engage in the conciliation process. Officers should:

- confirm that both the service provider and the complainant are willing to continue to participate in the conciliation process
- confirm the issue/s to be resolved through conciliation
- gain an understanding of the expectations of the parties in relation to the conciliation and address any misconceptions
- confirm that all parties are aware that officers are not acting as an advocate for either party but will assist the parties to try and find common ground and agree to a way forward, and
- discuss possible ways that the conciliation may proceed (for example, through phone calls, teleconference or face-to-face meeting).

6.22 Conciliation meeting

If a conciliation meeting is proposed officers should confirm, in writing, all meeting arrangements with the participants. This should include a description of the roles of each of the relevant parties, including officers during the conciliation meeting.

**Use of lawyers in a conciliation meeting**

The intention of a conciliation meeting is to bring two or more parties together to discuss and attempt to resolve the issues themselves.

Participants should be advised that the meeting is not a legal proceeding and that it is not appropriate for any of the parties involved to have legal representation at a conciliation meeting.
If any party asks to have legal representation officers should advise them that this is not in keeping with the focus of a conciliation meeting. If any party insists a lawyer be present officers should consult with a manager.

**Note:** Officers can terminate a conciliation meeting if a party or parties attend accompanied by legal representatives.

**Audio or video recording a conciliation meeting**

Recording of conciliation meetings using audio or video equipment is not permitted unless in exceptional circumstances. For example, where one party is unable to take written notes or arranges for someone to take written notes for them.

**Important!** Officers should discuss any requests to use audio or video recording equipment in such circumstances with a manager and all parties must be in agreement with the arrangement.

### 6.23 Teleconferencing to facilitate conciliation

Situations in which organising a teleconference with both parties may be appropriate include:

- where there are relatively straightforward or minor issues that can be discussed over the telephone without the need to meet face-to-face
- where the complainant is not located near the service provider and a face-to-face meeting is not practical, and/or
- where the complainant has limited mobility and is unable to attend a face-to-face meeting.

### 6.24 Speaking separately to the parties to facilitate conciliation

Speaking with each party separately may be appropriate when the complainant is open to a conciliated outcome but does not feel confident to meet face-to-face with a service provider. In these situations officers must confirm the information presented by one party with the other party.

### Resolution approach - Service provider resolution

#### 6.25 What does service provider resolution involve and what is the potential outcome?

Service provider resolution involves the Scheme referring a complaint or specific issues within a complaint to a service provider to resolve through its own complaints management processes.

Service providers of aged care are required to have complaints management processes in place. These requirements are set out in the *Quality of Care Principles 2014* or in the Comprehensive Grant Agreement and are also required under the relevant Accreditation Standards, Home Care Standards or Quality Framework Standards. A service provider may investigate the issue or meet with the complainant and any other relevant parties to discuss and resolve the issues in a complaint.

The advantages of service provider resolution include that:

- It supports continuous improvement within an aged care service.
• If solutions are implemented by the service provider working with complainants and care recipients, rather than having solutions imposed on them, the changes are more likely to be sustainable.
• It assists in building a relationship between service providers and complainants and/or care recipients.
• It can be useful in the case of anonymous complaints.

Officers actively monitor a service provider’s resolution of a complaint and may require the service provider to provide the Scheme with a written report on the action it has taken to resolve the complaint. Officers, with the agreement of a manager, may also request the service provider to provide additional information to assist the Scheme in assessing the service provider’s response.

The delegate may end the resolution process if satisfied with the report. The Scheme may provide a copy of the service provider’s full report or, where appropriate, a summary of the report, to the complainant.

6.26 What types of issues may be suitable for service provider resolution?

A complaint, or issues within a complaint, may be suitable for service provider resolution if:

• the Scheme is satisfied that the issues do not present any significant risk to the safety, health or wellbeing of care recipients
• the service provider is willing to act on the issue/s in the complaint
• the service provider is agreeable to providing a written resolution report to the Scheme within the agreed timeframes
• the aged care service and, where relevant, the service provider does not have a history of poor complaints management, and
• the complaint will be resolved in as timely and comprehensive manner by the service provider as it would be by the Scheme investigating or conciliating the complaint.

Important! It is essential that officers are aware of the limits on the types of complaints that may be resolved through a service provider resolution process and seek the approval of a manager before progressing to service provider resolution.

Note: It is not necessary to secure the agreement of a complainant to attempt to resolve a complaint through service provider resolution but, where appropriate, this should be discussed with the complainant.

6.27 Planning service provider resolution

At the commencement of a resolution process, having reviewed the RARP, officers should plan their approach to service provider resolution. In planning the resolution approach officers might consider:

• the timeframes within which the Scheme will expect a report from the service provider which would be discussed in consultation with the service provider – refer to 'Discussions with service providers' below
• what information the service provider has in relation to the issues and whether additional information should be given to the service provider, and/or
• any other suggestions that might assist the service provider to undertake the resolution process.

This planning should be done in consultation with a manager and the parties involved to optimise outcomes.

6.28 Confirming the engagement of all parties

Officers should ensure, where appropriate and relevant, that the resolution approach has been discussed with all parties.

In discussions with the service provider, officers should:

• confirm that the service provider is willing to engage in service provider resolution of the complaint
• confirm the issues to be resolved through service provider resolution
• confirm the process that will be adopted by the Scheme in relation to service provider resolution.

The service provider needs to commit to:

• examining the issue(s) within an agreed timeframe, and
• providing a report and any other relevant information to the Scheme
• make an assessment about whether the process and outcome achieved meet the Scheme’s expectations. This is to be done in consultation with the service provider and the complainant, and
• confirm that a copy of the service provider’s report to the Scheme will, in most cases, be provided to the complainant by the Scheme.

In discussion with complainants (if there is one and they are not anonymous) officers should:

• explain the service provider resolution process
• confirm whether they wish to be contacted by the service provider and as appropriate agree to their contact details being provided to a service provider so the service provider can make contact with them directly during the course of service provider resolution, and
• advise that they will be provided with feedback about the outcome of a service provider resolution process.

6.29 Referring the issues to the service provider for resolution

When the involvement of the parties has been confirmed and the planning undertaken, officers should send the service provider a letter:
• notifying them of the complaint, the contact details of the complainant, if appropriate, and the issues in the complaint
• if appropriate, requesting them to work with the complainant to resolve the issues, and
• requesting that they provide a resolution report to the Scheme within a specified timeframe.

**Note:** The resolution report must include sufficient information to enable officers to assess that appropriate action has been taken to resolve the complaint. The service provider will be provided with an optional template to assist with completing this written report.

As discussed with the complainant, correspondence will be sent to the complainant advising:

• that the issues have been referred to the service provider for resolution
• that the contact details of the complainant have been provided to the service provider so that they can be contacted by the service provider and invited to work together on the issues, as previously agreed by the complainant
• the date on which the service provider is expected to provide a report about the resolution process to the Scheme, and
• that the complainant will receive feedback from the Scheme about the outcome of the service provider resolution process.

### 6.30 Assessing the service provider’s resolution outcome

The Scheme will advise the service provider of the timeframe in which the resolution process is to be conducted and when the resolution report is to be provided to the Scheme. However, the nature of the resolution process adopted by the service provider is a decision for them.

If the service provider informs the Scheme of a possible delay to the resolution process, officers will determine, in consultation with a manager, whether or not the delay is acceptable. If a manager decides the delay is unacceptable, the RARP will be reviewed and updated, as appropriate.

**Assessment of the service provider resolution report**

Following receipt of a service provider’s resolution report, officers will:

• confirm receipt of the report with the service provider either orally or in writing
• review the report
• discuss the report with the service provider, clarify any issues and, if necessary, request further information, and
• consult with the complainant to discuss the actions taken by the service provider and the extent to which the service provider addressed the issues raised by the complainant.
Important! Service providers should be aware that the Scheme may provide their resolution report to the complainant. Officers should consider the relationship between care recipients and complainants when considering whether to provide a full report or a summary of the outcomes.

If the issues have been addressed and the delegate is satisfied with the actions of the service provider, the delegate may end the resolution process.

If the issues have not been adequately addressed by the service:

- in the first instance, a manager may decide to provide the service provider with an opportunity to respond to, and address, the concerns identified
- a manager may decide to adopt an alternative approach with the aim of bringing the resolution process to an end, or
- a delegate may decide to end the resolution process if the complainant and service provider have agreed on an outcome.

The outcome of the resolution process will be described in feedback provided to both parties (refer to Chapter 7: Outcome Phase).

6.31 What happens when new information is received during service provider resolution?

If at any stage during a service provider resolution process new information is brought to the attention of officers, a reassessment of the RARP should be undertaken. Officers should discuss this with a manager.

Any information that can significantly affect the Scheme’s decision to continue with service provider resolution will need to be brought to the attention of the complainant and service provider. The timing of this will need to be considered in light of the processes a service provider has in place to resolve the matters of concern.

Resolution approach - Mediation

6.32 What does mediation involve and what is the potential outcome?

Through the Scheme’s approach to mediation, the complainant and service provider use an independent mediator to develop resolution options and endeavour to reach agreement.

The Scheme may suggest to service providers and complainants that mediation may be the most appropriate resolution approach. They should advise that mediation is initiated by the service provider and the complainant at their own expense.

The Scheme will end the resolution process if the parties indicate that they agree to the mediation approach or the parties independently initiate mediation.

A delegate must write to both the service provider and the complainant confirming that:

- the parties have agreed to proceed with or are proceeding with mediation at their own expense
- the Scheme will end the resolution process and finalise the complaint on the basis that the parties are undertaking mediation, and
• if there continues to be issues following mediation, the complainant may return to the Scheme with the issues or any new issue, and these issues will be treated as a new complaint.

Note: Where the complainant returns to the Scheme with the issues related to a complaint that has ended or any new issue the delegate may exercise discretion to take no further action if the issues have already been dealt with by the Scheme.

6.33 What types of issues may be suitable for initiated mediation?

An issue may be suitable for service provider/complainant initiated mediation if:

• the parties agree to mediation and are willing to participate
• one (or both) of the parties agrees to meet the costs of mediation, and
• there are no issues which present a significant risk to a care recipient or suggest significant non-compliance by an approved provider with its responsibilities under the Act or their Comprehensive Grant Agreement.

Important! If officers consider that a complaint might be suitable for mediation, they should discuss this with a manager before proceeding. This is to ensure officers are aware of the limits on the types of complaints that may be resolved through mediation.

Resolution approach - Investigation

6.34 What does investigation involve and what is the potential outcome?

Investigation involves investigating complaint issues where other approaches are not appropriate, possible or likely to achieve a positive outcome. Depending on the nature of the complaint and severity of the issues, an investigation may involve a range of activities. Officers, in consultation with their managers, will determine the most appropriate activities on a case-by-case basis. Officers may obtain information by:

• requesting and reviewing documents from the parties (including the care recipient or their nominated representative) or other relevant persons (such as medical practitioners) and organisations
• talking to any relevant parties by phone or in person about the issues
• conducting site visits to obtain independent observations.

A delegate may end the resolution process on the basis of the findings from an investigation. The outcome of the resolution process will be described in feedback provided to both parties.

6.35 What types of issues may be suitable for investigation?

Some issues raised with the Scheme are not appropriate, possible or likely to achieve a positive outcome for early resolution, service provider resolution, conciliation or mediation. In these instances, a manager may choose to undertake an investigation.

6.36 Role of the officer in meeting the principles of good investigation

In conducting an investigation, officers are expected to:
• plan the investigation, including whether or not a site visit is warranted
• gather information relevant to the issue
• regularly review and update the RARP if any new information is received during an investigation
• maintain regular contact with all parties to the complaint
• observe the principles of procedural fairness, ensuring the investigation is conducted fairly and without bias
• conduct the investigation in a timely manner
• maintain a record of the investigation
• examine relevant information, and
• ensure that the facts and information support any findings.

6.37 Planning an investigation – using the aged care investigation matrix

By planning an investigation before it starts officers and managers can ensure that:

• the investigation is carried out methodically
• resources are used to best effect, and
• sources of information are not overlooked.

The investigation matrix is an internal document used for the management of the complaint which provides a structure for planning a timely, thorough and comprehensive investigation. Officers must complete the investigation matrix before conducting any investigations to:

• clarify the issues in a complaint and the investigation process to be taken
• identify what relevant information needs to be obtained during the course of the investigation to address the complaint, and
• identify where to get the required information, including other parties that may be contacted for further information.

When completed, the officer must seek manager approval of the investigation matrix before the commencement of an investigation, including approval of a site visit.

Activity 4: Collecting information

6.38 Collecting information – sources and types

The potential range of information that may be requested and considered is broad, however officers should only request information that is relevant or necessary to resolution of the complaint issues.

Information can be collected from a wide range of sources including:

• complainants
• care recipients
• service providers
• staff at aged care services
• relatives or family friends of care recipients
• representatives and advocates of care recipients, and
• health professionals.

Note: Third parties may agree or decline to give information or documents to the Scheme.

Types of information that may be collected, regardless of whether it is dated or undated, include:

• personal observations or accounts of things observed or heard by complainants, care recipients, staff members and others (even if the person is unable to substantiate the information with written documentation)
• business documents such as annual reports, policies and procedure manuals, files, incident reports, financial records, resident agreements, education and training documentation, complaints registers
• care documentation such as care recipient files, care plans, progress notes/reports and surveys that reflect service provision or care needs, and
• any other information which could materially affect the decisions of the Scheme.

Important! Officers must ensure that all personal and sensitive information received by the Scheme is handled appropriately in regards to the APPs. A notice of collection will be provided to individuals before collection, at the time of collection or as soon as reasonably practicable after collection unless notification may pose a serious threat to the life, health or safety of any individual.

During information collection officers should advise the parties to the complaint that:

• there is no requirement for either the complainant or the service provider to produce sufficient information to prove or disprove an issue. The parties should be encouraged to provide any information or evidence that it is within their power to provide.
• sufficient information is needed to allow the delegate to form an acceptable, fair, valid and reasonable conclusion.

6.39 Considerations about information the Scheme might receive

The Scheme will accept any information. However, officers must consider whether the information is relevant to and necessary for dealing with a complaint and the appropriate handling of that information. This includes:

• Information that might have been obtained without the knowledge or consent of the person/s involved, such as copies of documents, audio recordings, video recordings or photographs of care recipients or others
• Information that requires clarification about whom and what it relates to, such as photographs of a wound or body part, and
• Information that was provided confidentially.

Clarification or consent about information the Scheme receives might need to be obtained from the person involved or a care recipient’s representative.

If the Scheme did not request the information and it is not relevant to the complaint issues raised the information will not be considered further and, as appropriate, the information will not be retained by the Scheme. Otherwise officers will consider how the information guides the Scheme’s line of enquiry into relevant complaint issues.

Important! If officers are unsure about how to handle information the Scheme receives, including where officers cannot be satisfied that consent was obtained from the person involved or the information was provided confidentially, they must consult their manager.

Important! Where unsolicited personal and sensitive information is received by the Scheme, officers must ensure it is handled appropriately in regards to the APPs.

6.40 Can officers take photographs or voice record interviews?

Generally officers will not take photos. In some isolated circumstances where it is deemed relevant and important to the resolution process, officers may take photos of:

• care recipients where a care recipient has requested and thus consented to this without prompting.
• objects, such as unsafe equipment or environments or unclean rooms or equipment.

If taking photos, officers should discuss this with the service provider or the owner of the property and be mindful that any unrelated parties (for example, other care recipients) are not in the photograph.

Generally officers will take written records of interviews with relevant parties. In the circumstance that an officer cannot perform their role using this method, with the consent of the individual(s) being interviewed, an officer may use a voice recording device to perform this function. Officers should also discuss this with the service provider.

Important! Officers should discuss the circumstance for using voice recording equipment with a manager and all parties must be in agreement with the arrangement.

Activity 5: Undertaking a site visit or on-site meeting

6.41 What does an announced or unannounced site visit involve?

Site visits allow officers to get a sense of the environment within which the service is provided and can be an effective means by which to collect information, including through independent observations, and interviews with care staff and care recipients.

A site visit involves officers exercising their relevant powers when visiting:

• a residential care service
• the offices of a service provider, or
• the residence of a home care recipient or a complainant.

The Scheme can undertake announced or unannounced site visits; this will depend on the issue/s identified in the complaint and will vary from complaint to complaint.
• **Announced visits** - where notice is provided in relation to the visit. The notice can be anything from a number of weeks, days or a matter of hours.

• **Unannounced visits** - where no notice is given before officers arrive at the service outlet, service provider’s offices or the care recipient’s home.

Offices will provide notice of a site visit except where an officer considers it is not appropriate to do so because it is likely to:

• impede the resolution of the issue

• place the safety, health or well-being of any person at risk, or

• place any person at risk of intimidation or harassment.

6.42 **In what circumstances will a site visit to a residential service or service provider’s office be conducted?**

Whether or not a site visit should be conducted will depend on the specific issues identified in the case.

Officers should consider:

• the purpose of the visit (for example, is a site visit the most efficient and effective way to gather the necessary information?)

• whether there is sufficient concern to warrant a site visit, and

• the timing of the last visit to this service (this will be relevant if, for example, a site visit was conducted very recently on a very similar issue).

**Visiting a residential service during a communicable disease outbreak**

At times, it may be necessary for officers to do a site visit to a residential aged care service during a communicable disease outbreak to ensure that the approved provider is meeting its responsibilities under the Act.

**For example:** During a ‘gastro’ outbreak a complainant contacts the Scheme with a concern that care recipients are not being adequately hydrated due to a staffing shortage and that care recipients are becoming dehydrated and needing to be hospitalised.

Where a site visit is required during a communicable disease outbreak:

• Officers should contact the relevant health authority prior to a site visit and work in collaboration with them. The responsibility for monitoring communicable diseases rests with the relevant state or territory Public Health Unit (PHU).

• Two officers should conduct the site visit. One officer should have an appropriate clinical background and will ensure that appropriate personal protective equipment (PPE) is available and used correctly.

• The Clinical Unit can be contacted to seek advice. If advice is required after hours or on weekends the Senior Nurse Advisor can be contacted.
6.43  When would an onsite meeting be conducted?

An onsite meeting involves an officer meeting with the service provider or a care recipient face-to-face. In this situation, entry is gained in the same manner as a site visit, by officers exercising their relevant powers, but the intention of the visit is for a meeting and not for investigation purposes.

For example: A care recipient is not comfortable speaking over the phone and would like to meet with an officer to discuss issues of a complaint or a conciliation meeting is undertaken at a residential service, service provider’s office or care recipient's home.

Important! Should an officer observe anything of potential concern or have the need to gather documentation, they may do so because they gained entry under their relevant powers.

6.44  Powers of an authorised officer undertaking a site visit under the Aged Care Act 1997

When officers undertake site visits for the purposes of assessing whether a service provider is complying with its responsibilities under the Act, they must have the delegated authority to do so. The powers of an authorised officer are set out in Part 6.4 of the Act (refer to the Comlaw website).

Commencing a site visit – consent for entry

As authorised officers, when arriving at a service provider’s office or service, officers must:

- identify/announce themselves to the person receiving them, including showing their authorised officer identification
- ask to speak to someone who is ‘key personnel’ of the service provider, the occupier of the premises or the person in charge
- advise the representative of the service provider that consent for access to the premises can be withdrawn at any time under Section 90-1(4) of the Act
- advise about the purpose of the visit including the nature of the complaint or issues being examined, and
- if the visit is unannounced, give the service provider a letter advising of the issues in the case.

It should be explained that under Section 91-2 of the Act, an authorised officer may ask a person at the premises to answer questions or produce documents or records.

6.45  Entry interview

Following entry, an entry interview should be conducted with management/staff identified by the service provider (usually this will be key personnel).

An entry interview provides an opportunity for the officers to:

- introduce themselves to relevant personnel
- explain that they are authorised officers and what this means
- outline the intended schedule for the visit
• confirm the practical arrangements for conducting the visit, and
• clarify any questions that the service provider may have.

6.46 Exit interview

Site visits would normally conclude with officers conducting an exit interview with one or more key personnel (or other staff) of the service provider.

Exit interviews provide an opportunity:

• to discuss the key observations made by the officers or any other information gained during the site visit
• for the service provider to address any of the issues identified or to provide other relevant information
• for the officers to give the service provider general information about the Scheme’s process following the site visit, and
• for the service provider to ask any questions about the site visit and the Scheme’s processes.

In discussing the information arising from the site visit, officers should make it clear that the information obtained is preliminary information only, that further work will be done, and that ultimately the decision regarding the outcome of the resolution process will rest with a delegate (whose decision cannot be pre-empted at the site visit).

Important! If, during the course of a site visit, officers identify any immediate concerns regarding the safety, health or wellbeing of care recipients (for example, equipment blocking a fire exit), these should be raised with the service provider immediately while at the service.

6.47 When will a site visit to a private home be conducted?

Whether or not a visit to an individual’s private home should be conducted will depend on the specific issues identified in the case. A key consideration is the purpose of the visit. Officers should seek the approval of a manager before undertaking any home visits.

Some specific circumstances in which a home visit might be considered include:

• where an interview with the care recipient or complainant is required and this cannot be completed over the telephone, in a state or territory office or an alternative location
• where there is information relevant to the complaint in the home of the care recipient or complainant
• the preferences of the care recipient, nominated representative or complainant, taking into account any special requirements they may have, and
• where a face-to-face meeting with the care recipient, nominated representative or complainant and any other relevant party is part of the strategy to resolve the complaint.
6.48 Planning for a site visit to a private home

Before conducting a visit to a private home, officers must:

- discuss the proposed visit with the occupier of the home (usually the care recipient or complainant) including:
  - advising the person of the purpose of the proposed visit
  - seeking the agreement of the person to the visit
  - arranging a mutually convenient time for the visit (taking into consideration the timing of visits from care workers)
  - explaining what will happen during the visit and how information collected will be used
  - discussing options for making the person feel most comfortable (for example, having a support person present or having a male or a female officer conduct the visit). If conducting a visit to a female care recipient or complainant who will be alone, at least one female officer should be present. Conversely, if visiting a male care recipient or complainant who will be alone, at least one male officer should be present.
  - collecting as much information as possible about the home (for example, who is also likely to be in the house during the visit, whether they have animals, and so on) to assess potential risks, and
- use this information to complete a Community Visit Safety Plan.

Before visiting the home on the day of the visit, officers are expected to:

- phone the care recipient or complainant to confirm arrangements
- before leaving for the person’s home, ensure that a colleague or manager has access to the information pertaining to the visit, and
- phone their manager just before arrival and just following departure from the home, if telephone reception is available. If the home is in a rural area which does not have mobile contact, officers should phone a manager when leaving the last known reception area and contact again when back in range

Activity 6: Assessing collected information

6.49 Analysing collected information

When analysing information officers are expected to consider whether:

- the information obtained answers the questions identified during the planning phase (as adjusted over the course of the resolution process)
- based on the information before the officer, it is possible to make a conclusion on all of the relevant questions
Guidelines for the Aged Care Complaints Scheme

Chapter 6: Resolution Phase

6.50 Making findings and conclusions in relation to a burden of proof

Findings, conclusions or decisions must be based on what is reasonable, and any conclusions made should be supported by the information collected.

In drawing conclusions, officers should:

• understand that they do not have to prove beyond a reasonable doubt that a matter or fact has been proved. The information only needs to be sufficient to reasonably satisfy a delegate that a fact has been established or is the most probable version of events.
• not make assumptions and must make it clear that all available information has been considered in reaching the stated conclusions.

It is not always possible to resolve each issue. The information available might be scant, inconclusive or unevenly balanced. This should be explained to the complainant and the service provider.

Where resolution is not possible due to inadequate information, officers should consider working with the complainant and the service provider to resolve the complaint in a different way. Options for reaching an understanding between the complainant and the service provider should be explored.

Activity 7: Referrals to other areas or organisations

6.51 When can the Scheme make a referral to another area or organisation?

The Scheme can make a referral in any phase of the resolution process. If sufficient information is obtained to indicate that information received may assist another organisation or another area within the department perform its regulatory function, a delegate may authorise the release of the information in accordance with the requirements related to the disclosure of protected information, personal information and confidential information.

Referrals of information or complaint issues can be made to areas or organisations including:

External referrals
• the Quality Agency
• state and territory governments
• the Public Health Unit
• the police
• the Coroner
• the Australian Health Practitioner Regulation Agency (AHPRA)
• health care complaints bodies.

Internal referrals
• other regulatory areas, including compliance and prudential areas, within the department
• the audit and fraud area of the department.

Activity 8: Documenting the resolution process

6.52 Preparing a conciliation meeting report

Following a meeting, officers should document the agreed outcomes in a conciliation meeting report. This is an internal report used for the management of cases.

During or following a teleconference or speaking separately to conciliation parties, if agreement on the issues is reached. Officers should confirm the understanding of both parties of what has been agreed and what action, if any, will be taken by the service provider. This can be done orally or in writing.

6.53 Preparing a site visit report or onsite meeting report

Following a site visit to a residential service, service provider’s office or a private home, a site visit report must be prepared. This is a contemporaneous record summarising the observations, discussions and documents reviewed at the site visit by the officers. This is an internal report used for the management of complaints.

Officers must prepare an onsite meeting report following an onsite meeting. This is a contemporaneous record summarising any discussions between the officers and the relevant parties. This is an internal report used for the management of complaints.

Note: Site visit reports and onsite meeting reports should be completed as soon as possible to preserve the contemporaneous record taken during the site visit, including any discussions between the officers and the relevant parties. All visits to service provider premises should be disclosed to relevant parties and therefore cannot remain confidential.

6.54 Providing feedback to parties to a complaint

The parties to the complaint will receive details about the resolution process outcome through the provision of written feedback once the resolution process is ended (refer to Chapter 7: Outcome Phase).

6.55 Completing a detailed resolution report (DRR)

Officers must document the resolution process in a DRR. The purpose of a DRR is for officers to record in a consolidated report:

• the issues in the case
• a summary of the resolution process adopted
• the outcome recommended in relation to each issue, and
• the rationale for recommending the proposed outcome in relation to each of the issues.

In cases where a NIID report (NIIDR) has been prepared and a NIID issued to a service provider the DRR will detail the service provider’s response to the NIID.

A DRR is an internal report used for the management of complaints and will inform the delegate’s decision regarding the complaint and must be approved by the delegate. The DRR also informs the delegate’s decision on how to end the resolution process (that is, whether to end on the basis of directions being issued or whether to end on some other legislated basis).

**Note:** A DRR is not required for complaints resolved by early resolution at the intake or detailed assessment phases (refer to Chapter 4: Intake Phase and Chapter 5: Detailed Assessment Phase).

### 6.56 What is a notice of intention to issue directions (NIID)?

During the course of a resolution process, officers can decide it may be appropriate to issue directions to a service provider to take action to comply with its responsibilities under the Act and Aged Care Principles.

The Scheme, in most circumstances, is required to give the service provider a notice of intention to issue directions (NIID) prior to directions.

A NIID describes the Scheme’s preliminary findings, identifies concerns regarding the apparent failure of a service provider to meet its responsibilities under the Act and Aged Care Principles and provides an opportunity for the service provider to identify how it has or will address the issues raised.

**Note:** A NIID may be issued during any resolution approach and is not restricted to investigations.

### 6.57 When is a NIID not required?

The Scheme is not required to give a service provider a NIID in circumstances where it is necessary for prompt action to be taken by the service provider in order to protect the safety, health or wellbeing of care recipients and thus directions are given. Refer to Topic 7.8 When would the Scheme use a decision to end through issuing directions to a service provider?

### 6.58 What does a NIID include?

Officers must complete and submit a notice of intention to issue directions report (NIIDR) to a delegate in order to appropriately document the reasons for issuing a NIID and to receive delegate approval to proceed with a NIID. This is an internal report used for the management of complaints.

Where a delegate agrees to proceed with issuing a NIID, officers should draft the notice to the service provider:

• describing the preliminary findings of the delegate and the concerns held by the delegate regarding the apparent failure of the service provider to meet its responsibilities under the Act and Aged Care Principles
• providing the service provider with the opportunity to respond to these findings and concerns by identifying how they have, or will, address the matters identified, and

• providing notice that the Scheme may (after considering any response from the service provider) issue written directions directing the service provider to take actions in order to comply with its responsibilities under the Act and Aged Care Principles.

The NIID must be approved by the delegate before being given to the service provider. The NIID must not be provided to the complainant or any other party.

6.59 How long does a service provider have to respond to a NIID

If the Scheme gives a service provider a NIID, the service provider may decide whether or not to respond to the NIID.

The service provider has 14 days within which to respond, unless a greater or lesser time is specified by the delegate in the notice.

Important! A lesser time might be specified if action needs to be taken within a short period of time (that is, less than 14 days) in order to protect the safety, health or wellbeing of care recipients.

6.60 Scheme consideration of the service provider’s response to a NIID

If a service provider provides a response to a NIID, officers must undertake prompt consideration of the response and consider:

• whether the service provider has taken sufficient action to remedy the issue/s and therefore the resolution process can be ended, without issuing of directions (for example, the service provider has addressed the issues to the satisfaction of the Scheme)

• whether the service provider has provided a response which adequately details how and when it will implement improvements to meet its responsibilities in respect of the issues raised and, whether it is appropriate to give directions based on the actions and timeframes proposed by the service provider, and

• whether the actions and/or timeframes proposed by the service provider are inadequate and if so, the need for the Scheme to give directions detailing the actions and timeframes it decides are appropriate.

• the adequacy of the response with input from their peers and manager. This could include seeking clinical advice from the Scheme’s Clinical Unit.

For information on issuing directions to a service provider, refer to Chapter 7: Outcome Phase.
Chapter 7: Outcome Phase

This chapter sets out the key activities to be undertaken by officers during the outcome phase, the fourth and final phase of the complaints management process.

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**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.

**Note:** Reference to an 'officer' includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.
Overview of the outcome phase

7.1 Who can make a decision to end the complaint resolution process

The complaints outcome phase is one of the key decision points in the resolution process. The decision to end a complaint resolution process must be made by a delegate with the appropriate authority under the Act.

Officers make recommendations to the delegate in the outcome phase about the most appropriate reasons for ending a resolution process under section 14 of the Complaints Principles 2014 (the Complaints Principles). Officers are encouraged to seek the views of their managers and peers (a panel) to support objective, reasonable and consistent decision making. This is particularly important where a delegate is considering issuing directions to a service provider, or where a delegate is considering ending a resolution process because they do not believe continuation is warranted. Written feedback signed by the delegate must be provided to the complainant and service provider outlining the resolution process undertaken and the decision of the delegate.

Officers will finalise the case in the Scheme’s official information management system once the complainant and/or service provider have received appropriate feedback.

Note: Early resolution within the intake phase and detailed assessment phase is not a formal resolution process and is not discussed in this Chapter; there is no requirement to provide feedback to complaint parties where a complaint has been resolved through early resolution under paragraph 7(b) of the Complaints Principles.

7.2 Complaints management principles relevant to the outcome phase

When deciding on complaint outcomes during the outcome phase, officers should have particular regard to the complaints management principles set out below. Officers will:

- provide an opportunity for the parties to a complaint to provide relevant information before key decisions are made
- seek out and make decisions based on the best available and relevant information
- base their decisions on a reasonable interpretation of all the available information
- make informed, objective and consistent decisions and ensure that delegates making a decision have access to all relevant information that will inform their decision
- make decisions which are consistent with the Aged Care Act 1997 (the Act) and Aged Care Principles and support the Scheme to achieve its objectives
- work within the scope of their delegation as it applies to the Scheme
- use their peers and the department’s broader resources to support accurate, objective, reasonable and consistent decision making
- ensure all parties to a complaint are advised of their right to a review of the Scheme’s decision and/or the Scheme’s handling of a complaint
- not disclose protected information or documents other than as required by law or where proper authorisation is given.
7.3 Manager role at the outcome phase

Managers support officers to undertake their role and provide oversight for all decision making processes.

Managers will be involved in assisting officers to make recommendations to the delegate in the outcome phase. This is particularly important where consideration is being given to ending the process on the basis of the issuing of directions, or whether continuation of the process is not warranted or because issues have been referred to other organisations.

At a minimum, managers are expected to:

- provide assistance on an 'as-needs' basis including when an officer needs to debrief or seek guidance or direction
- review and agree to any change in risk or situation within the case which may mean the suggested outcome is no longer appropriate
- provide assistance as officers finalise their reports to the delegate, and
- review and clear any report prepared for the delegate including the detailed resolution report (DRR) and directions.

The extent of manager involvement in any particular complaint will depend on the nature of the complaint, the issues identified and the experience of the officers involved. The level of manager involvement should be discussed between the manager and the officer to whom the complaint is allocated and reviewed if circumstances change.

7.4 Delegate’s role in the outcome phase

The delegate might be the manager overseeing the resolution process or a person who has not been involved in the management of the case. The key role of the delegate is to:

- provide feedback to the officer regarding any changes that are required in order to inform their decision making process
- where needed, seek the advice of their peers (a panel) in some difficult cases
- sign the DRR once satisfied with it
- sign feedback letters to the complainant and the service provider, including the letter to the service provider in which directions are issued, once they are satisfied, and
- consider and, where appropriate and within scope of their delegations, release any relevant information to other organisations.

7.5 The available decisions to end the complaint resolution process in the outcome phase

Under Section 14 of the Complaints Principles, the Scheme may end a complaints resolution process on the basis of any of the following:

- The issue/s has been resolved because the complainant and the service provider have agreed on an outcome.
- The service provider has addressed the issue/s to the satisfaction of the Scheme.
• The Scheme has directed the service provider to take actions to comply with its responsibilities under the Act and Aged Care Principles.
• Compliance action has been undertaken under Part 4.4 of the Act.
• The complainant has withdrawn from the resolution process.
• The issue is better dealt with by another organisation.
• Continuation of the resolution process is not warranted.

Decision to end - the issue has been resolved

7.6 When would the Scheme use the decision to end as the issue has been resolved?

One of the key aims of the Scheme is to assist parties, where possible, to resolve concerns to achieve good outcomes for care recipients. The Scheme may end a resolution process if the complainant and the service provider have reached an agreed outcome in relation to an issue.

For example: a complaint may be raised that there are insufficient daily activities within an aged care service to meet the needs of a particular care recipient. Through conciliation, the Scheme arranges for the complainant, the care recipient and the activities manager at the service to meet and discuss the matter. The complainant and care recipient explain that the care recipient likes to play cards but the service does not provide any activities of this nature. The activities manager notes that this activity is not currently offered and recognises that there may be a number of other care recipients who may also welcome the opportunity to form a card playing group. The activities manager agrees to canvass other care recipients with the aim of setting up a group to play cards once a week. The complainant and the care recipient agree to this arrangement.

Decision to end - the service provider has addressed the issue

7.7 When would the Scheme use the decision to end as the service provider has addressed the issue to the satisfaction of the Scheme?

The Scheme may end a resolution process if the service provider has addressed the issue to the satisfaction of the Scheme.

In managing some complaints, officers may come across situations where, although a complainant may not be satisfied with the outcome, the service provider is able to demonstrate, to the satisfaction of the delegate, that it has taken sufficient action to ensure it is meeting its responsibilities in relation to the issues raised.

If the complainant continues to believe the issues have not been resolved, officers must ensure that reasonable opportunity is given to the complainant to provide further information to demonstrate this, before making a decision to end on this basis.

Decision to end - the Scheme has issued directions

7.8 When would the Scheme use the decision to end through issuing directions to a service provider?

The Scheme may end a resolution process if the Scheme has issued directions to a service provider.
Directions require a service provider, who is the subject of a resolution process, to take action to comply with its responsibilities under the Act and Aged Care Principles. Directions may be issued where:

- A service provider’s response to a NIID issued during the resolution phase is inadequate, noting that in most circumstances, a NIID is issued to provide an opportunity for the service provider to identify how it has or will address the issues raised (refer to Topic 6.60 Scheme consideration of the service provider’s response to a NIID), or
- prompt action is required by the service provider in order to protect the safety, health or wellbeing of a care recipient without first giving the provider a NIID.

**Note:** If a NIID has been issued, any response provided by the service provider must be considered in determining whether to issue directions.

### 7.9 What information is included in directions?

If the delegate decides to issue directions, the officer should prepare directions for the service providers which include:

- the actions the service provider is required to take, and
- the timeframe/s in which the actions must be undertaken.

Directions will be provided to the service provider along with written feedback on the reasons for ending the resolution process on this basis.

**Note:** Once directions are issued the resolution process is finalised but the Scheme will continue to monitor the service provider’s actions to ensure it will meet its responsibilities before finalising the case (Refer to Topic 7.31 Monitoring the service provider’s response to directions).

### 7.10 Determining timeframes for directions to be met

Officers, in consultation with a manager, must determine the timeframes in which directions must be met on a case-by-case basis.

Matters that officers should take into account in determining appropriate timeframes include:

- the potential risk to the care recipient/s
- the appropriateness of any timeframes proposed by the service provider in its response to the NIID, and
- the timeframe required for a service provider to appropriately implement required changes to ensure sustainable outcomes.

**Note:** An extension of time can be given to the service provider to meet the directions. In this circumstance, the service provider (and where appropriate the complainant) will be advised of this extension in writing and the service provider monitored against these extended timeframes (Refer to 7.32 What happens if the service provider fails to meet directions?)
7.11 Are directions enforceable?

Under the Complaints Principles, service providers are required to comply with directions. If the service provider fails to comply with the directions, a referral for compliance action under Part 4.4 of the Act may be made.

The service provider will be notified that a written response addressing the directions is required by the Scheme along with evidence that the required actions have been undertaken. Refer to 7.31 Monitoring the service provider’s response to directions.

Decision to end - compliance action has been taken

7.12 When would the Scheme use the decision to end as the department has taken compliance action?

In some circumstances, a resolution process will identify an approved provider’s non-compliance with the responsibilities detailed in the Act and Aged Care Principles that is of such concern that action is taken by the department under Part 4.4 of the Act.

Part 4.4 of the Act provides that a delegate may take compliance action in respect of an approved provider if:

- the service provider has not complied with its responsibilities under the legislation
- the delegate considers that it is appropriate to take compliance action (taking into account the various matters described in the Act), or
- the delegate complies with the procedure detailed in the Act for imposing sanctions.

The compliance process includes a requirement that the delegate give the approved provider a notice of non-compliance or sanction and that the service provider is afforded an opportunity to make a submission on the issues raised.

If such action is taken, it will be made publicly available on the department’s website. At this point the Scheme’s delegate may end a resolution process on the basis that the department has taken compliance action under Part 4.4 of the Act.

Decision to end - the complainant has withdrawn from the process

7.13 When would the Scheme use the decision to end as the complainant has withdrawn from the process?

There may be circumstances in which a complainant, for whatever reason, decides that they no longer wish to be part of a resolution process. This may occur where the:

- complainant is a care recipient and the issues are no longer of concern to them, or
- issues are specific to a care recipient and do not appear to be ongoing.

The delegate must take the complainant's wishes into account and may decide to end a resolution process if the complainant withdraws from the process.

However, delegates may exercise discretion to continue with the process without the involvement of the original complainant. This decision must be based on risk assessment and with consideration of achieving a proportionate response.
For example: the delegate may decide to continue with the process where the complainant still has concerns, but is unable to continue to be engaged in the process, or where the delegate continues to have concerns with the care and services being provided.

Decision to end - the issue is better dealt with by another organisation

7.14 When would the Scheme use the decision to end as the issue is better dealt with by another organisation?

In most situations, officers will be aware when a complaint is first received whether it is within the jurisdiction of the Scheme to manage. However it may not be until a resolution process has been commenced, that officers identify to the delegate that the issues raised in the complaint are more appropriately managed by another organisation.

The Scheme may end a resolution process if the issues raised in a complaint can more appropriately be dealt with by another organisation such as the Australian Health Practitioner Regulation Agency (AHPRA), the police, the coroner or a food safety organisation. This decision will be made by the delegate.

For example: if a complaint relates to poor quality of food but after further examination by the Scheme it becomes apparent that there are food safety concerns, this issue might be more appropriately dealt with by the relevant local council or food safety authority.

7.15 Will the Scheme seek feedback from the referral organisation?

Officers are not expected to seek feedback on the outcome of the referral organisation’s treatment of the matter.

If, however, there are residual issues being managed by the Scheme that require input in relation to those outcomes, the Scheme may seek further information from the referral organisation.

Decision to end - continuation of the resolution process is not warranted

7.16 When would the Scheme use the decision to end as continuation of the resolution process is not warranted?

The Scheme may end a resolution process if it is satisfied that continuation of the resolution process is not warranted where one or more of the following applies:

- Despite reasonable enquiry by the Scheme, the circumstances giving rise to the issue cannot be determined.
- The information given by the complainant was not given in good faith.
- The issue has been, or is, the subject of a legal proceeding.
- The issue has been dealt with under the Complaints Principles.
- The issue is subject to a coronial inquiry.
- A care recipient named in the complaint does not wish the resolution process to continue.
• That having regard to all the circumstances (for any other reason than those specified in the Complaints Principles), continuation of the resolution process is not warranted.

The complainant and the service provider must be advised of the reasons why the delegate considers ending the process would be appropriate and be given the opportunity to respond.

7.17 Circumstances giving rise to the complaint not being determined

In some circumstances, despite officers' reasonable efforts, they will be unable to obtain sufficient information to determine whether or not a particular event occurred. This will result in officers being unable to resolve the matter between the parties or being satisfied that the service provider is meeting its responsibilities in relation to the issue. In these limited circumstances, delegates have the capacity to end a resolution process on this basis.

7.18 Information not given in good faith

The role of officers is not to judge the motivations for which a person may have made a complaint to the Scheme, but there are some very limited circumstances where information may not have been given by the complainant in good faith. Where officers believe this may be the case, they should raise this matter with a manager who will seek further advice from the Aged Care Complaints Branch through the Scheme Guidance team.

7.19 Where the issue is subject to legal proceedings or coronial inquiry

Where officers become aware that an issue is or has been the subject of a legal proceeding, or is subject to a coronial inquiry, the delegate may end the resolution process on this basis.

For example: where a complaint is linked to a matter that is the subject of a coronial inquiry, such as someone alleging that the failure to administer correct medication caused the death of a family member, the Scheme will not look into the matter.

However, where there may be concerns about care that may not be directly related to a coronial inquiry, for example where someone has concerns about the continence management of a care recipient immediately before their death, such issues may still be managed by the Scheme.

Important! Officers should exercise caution and seek their manager's advice when considering whether the Scheme should manage issues linked to legal proceedings or a coronial inquiry. Advice about the appropriate approach should also be sought from the Aged Care Complaints Branch through the Scheme Guidance team.

7.20 Issue has been dealt with previously

Typically, officers will be aware at the intake phase whether an issue has been dealt with previously under the Complaints Principles, and may decide it is appropriate to take no further action at the intake phase. However, there can be circumstances where officers do not become aware of this until a resolution process has commenced.

It is important to note that while delegates have the discretion to end a process on this basis that the issue has been previously dealt with, officers and delegates must:
• ensure the complainant has been given the opportunity to provide to the Scheme any information they have which may indicate the process should continue regardless of the fact that the matter has been previously dealt with
• consider whether there are any risks to the safety, health or wellbeing of care recipients which indicate that the process should continue, and
• consider whether there are any other relevant considerations which the delegate should take into account when making a decision about whether to end on this basis.

7.21 Care recipient does not want the process to continue

At any time during a resolution process, care recipients to whom the concerns relate may decide that they no longer wish for the resolution process to continue.

In most cases, delegates should respect the wishes of care recipients and end the process on this basis unless there are ongoing concerns for the safety, health or wellbeing of care recipients and/or other care recipients within the service.

7.22 Having regard to all circumstances continuation not warranted

The Scheme maintains a broad capacity to end a resolution process on the basis that continuation is not warranted.

For example: where a delegate decides to end a resolution process because the parties have agreed to undergo mediation and there is no longer a role for the Scheme in handling the complaint.

Feedback to complaint parties and referrals

7.23 What feedback must the Scheme give complainants and service providers when a complaint is finalised?

Following the conclusion of a resolution process, the Scheme must give written feedback, signed by the delegate, to the complainant and the service provider in relation to:

• any key findings
• the delegate’s decision/s to end the process and the reasons for the decision/s
• how the complainant and the service provider may apply for review of the decision/s, and
• any other appropriate feedback.

Where a complainant withdraws from the resolution process or is anonymous the Scheme is not required to give feedback. Feedback should still be provided to the service provider.

Important! There are restrictions on releasing protected information, personal information and confidential information held by the Scheme to other parties and organisations, including when making a referral (refer to Topic 0
Restrictions on providing feedback about referrals).

**Important!** Where the feedback is in relation to compliance action being taken, this will only be provided once the information in relation to the compliance action is made publicly available on the department’s website.

### 7.24 The importance of providing informal feedback throughout the resolution process

As a matter of good practice and maintaining effective relationships, officers should provide timely feedback to the complainant, the service provider and any other relevant party (including any affected care recipients) throughout the resolution process. This informal feedback can include:

- advising the parties of the progress of the complaint
- identifying to the service provider issues of concern or potential areas for improvement that may have been identified during the course of the process, and
- talking the parties through the final decision of the delegate (once the delegate has made the decision) before they receive the formal feedback in writing.

**Note:** If a case is complex officers can consider whether to provide informal written feedback to the complainant and service provider to clarify the potential resolution outcome and seek preliminary comments in a specified timeframe. Where comments are received these should be noted in the formal written feedback.

### 7.25 What information should be included in written feedback to the complainant and the service provider?

Once a decision has been made to end a resolution process, formal feedback must be provided to the service provider and the complainant (unless the complainant is anonymous or withdraws from the process).

The written feedback provided to the complainant and the service provider should logically set out:

- the issues raised by the complainant and any other contextual information relevant to the complaint
- a general description of the resolution process, and
- the resolution outcome, including the reasons for the outcome.

The feedback provided to the complainant and the service provider should:

- only include a brief description of the resolution process
- demonstrate that each outcome is rationally based on the information gathered or agreements reached during the resolution process
- lead the reader through the delegate’s logical decision making process, detailing the reasons for the outcome (along with the information to support reaching the outcome)
- contain all the steps of reasoning, linking the facts to the decision, so that the person receiving the feedback can understand how the decision was reached, and
• not venture into areas beyond the scope of the Scheme. For example, never suggest that a person may have been negligent nor comment on matters which are properly dealt with by medical practitioner boards and coroners. Do not speculate about the cause of a person’s death or suggest that a medical practitioner may have been negligent or engaged in malpractice.

Important! Officers must consider restrictions on confidential information, personal information or protected information associated with the complaint in providing feedback to the complainant and the service provider. This is particularly relevant where the complainant is not the care recipient or their nominated representative or where any aspect of the complaint has been kept confidential from the service provider.

The feedback letter must be sent by registered mail, unless otherwise requested and recorded in a file-note, so that the date of the advice being received is documented by the Scheme.

7.26 Should the complainant and the service provider receive the same feedback?

In most circumstances, the same feedback should be provided to both the complainant and the service provider. Circumstances where the feedback may vary between the parties include:

• where the complainant or care recipient’s name or information relating to the complaint is confidential, this will limit the feedback that can be given to the service provider
• where the complainant is not the care recipient or their representative, feedback to the complainant may be limited to protect the personal information of the care recipient, and
• Where only the service provider should be provided the directions. However, the actions required and the timeframes set by the Scheme can be summarised in the feedback to the complainant, in accordance with information disclosure requirements.

Important! If officers are in doubt as to the types of information that should not be disclosed, this should be discussed with a manager.

7.27 What review rights are afforded to the complainant and service provider?

Officers must ensure that all correspondence about decisions by the Scheme to end a resolution process includes information about review rights and details of how the parties may access these review mechanisms.

Under Part 7 of the Complaints Principles, both complainants and service providers are entitled to:

• seek reconsideration by the Scheme of a decision made under the Complaints Principles
• seek examination by the Aged Care Commissioner (ACC) of a decision made under
the Complaints Principles, and/or
• make a complaint to the ACC about the Scheme’s processes for handling complaints
made under the Complaints Principles.

**Note:** The service provider and complainant **cannot** apply to the ACC for examination of
the decision to end a resolution process on the basis that compliance action has been
taken in line with Subsection 24(3) of the Complaints Principles. In relation to a
compliance process undertaken by the department, review processes exist for service
providers in relation to action taken under Part 4.4 of the Act.

In addition to the review rights provided for in the Complaints Principles, parties to a
complaint can also access other informal and formal review mechanisms. This includes
review mechanisms that are available for parties to a complaint about an aged care
service under a Comprehensive Grant Agreement.

For more detail about the review processes associated with the Scheme, refer to
Chapter 8: Complaints Review Mechanisms and Chapter 10: Complaints Management
for Aged Care Programmes under Comprehensive Grant Agreements.

### 7.28 Can feedback be given to others?

The Scheme has the capacity to give feedback about the resolution process under
paragraph 18 of the Complaints Principles to any other person or organisation which has
a sufficient interest in the matter.

This may include, but is not limited to, feedback to:

• the care recipient/s to which the complaint relates who wish to receive feedback, and
• persons who were interviewed, provided information or were involved in discussions
throughout the resolution process.

In deciding what information, if any, should be provided to others, officers must consider:

• the privacy and confidentiality restrictions on the information
• the relationship that the person has to the complainant or the care recipient
• the circumstances of the complaint, and
• the wishes of the person.

Officer must seek the delegate’s approval of:

• the feedback before it is provided to a person or organisation, and
• where relevant, the release of protected information as defined in Division 86 of the
  Act.

**Important!** Delegates must ensure they have the appropriate delegations to release
information.

**Important!** If officers are unsure about releasing information to another person or
organisation, Legal Services must be consulted. This is facilitated through the Aged Care
Complaints Branch. Please consult the Scheme Guidance team.
7.29 Restrictions on providing feedback about referrals

When making referrals, officers must:

- think carefully about whether or not the complainant and the service provider should be informed, and
- ensure they meet requirements related to the disclosure of protected information, personal information and confidential information.

Officers should not advise the service provider or the complainant of the referral where:

- this may hinder the processes of the organisation or area to which the information is being referred, including:
  - Referrals to the police or a type 3 – assessment contact or type 4 – review audit referral to the Quality Agency; feedback can be provided after the Quality Agency has completed its process.
  - Referrals to the compliance area of the department; note that feedback can be provided once information in relation to the compliance action is made publicly available on the department’s website.
  - the information concerns personal information related to the conduct of an individual being referred to AHPRA, the coroner or the police.

Important! Managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants/nominated representatives that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Scheme.

For further information on releasing protected information, contact the Scheme Guidance team.

Finalising the case

7.30 When the Scheme will not monitor resolution outcomes

Where the outcome is not a direction from the Scheme, officers are not required to monitor the implementation of the resolution outcome.

Complainants are advised through written feedback from the delegate that if they continue to have concerns with the care and services being provided, they may come back to the Scheme to have the issue reassessed (Refer to 7.25).

7.31 Monitoring the service provider’s response to directions

Officers must monitor the service provider’s response to directions and determine whether the service provider has undertaken the required action to comply with its responsibilities.

The Scheme may, where appropriate, undertake visits to the service or contact the complainant, care recipients, staff of the service and so on, to gather information in order to make a judgment about whether the requirements of the directions have been met.
7.32 What happens if the service provider fails to meet directions?

If, after the timeframe/s stipulated in the directions, the delegate is not satisfied that the requirements of the directions have been met, officers must, in consultation with a manager and in a timely manner, provide the delegate with sufficient information to decide:

- whether allowing the service provider additional time to meet the directions is appropriate and would be the best way to achieve a good outcome to the complaint, or
- whether the failure to meet the directions should be referred for consideration of compliance action under Part 4.4 of the Act or the Comprehensive Grant Agreement.

**Note:** Where an extension of time is given to the service provider to meet the directions, the service provider (and where appropriate the complainant) will be advised of this extension in writing and the service provider monitored against these extended timeframes.

7.33 Finalising the case following directions

If, after the period/s stipulated in the directions, the service provider has satisfied the delegate that the requirements of the directions have been met, the delegate will, in a timely manner, finalise the matter and advise the service provider of this. The case must be finalised on the Scheme’s official information management system.

7.34 Finalising the case following the provision of feedback

Unless directions are given to a service provider, the case should be finalised on the Scheme’s official information management system once the Scheme has confirmed that the complainant (if any) and service provider have received their feedback letter.
Chapter 8: Complaint Review Mechanisms

This chapter provides information on review mechanisms available to parties to a complaint during and following a complaints process.

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### Guidelines for the Aged Care Complaints Scheme

**Chapter 8: Complaint Review Mechanisms**

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**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.

**Note:** Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.
Overview of complaints review mechanisms

8.1 Review mechanisms available for parties to a complaint

Parties to a complaint have a right of review. The *Aged Care Act 1997* (the Act) and the Complaints Principles 2014 (the Complaints Principles) provide capacity for the formal review of the Scheme’s decisions and processes by the Scheme and the Aged Care Commissioner (ACC).

There are four potential review mechanisms available to parties to a complaint:

- Any person involved in a complaint can choose to raise a concern about the Scheme’s handling of the complaint or an officer’s conduct with the department.
- Following resolution of a complaint, complainants and service providers can seek (internal) reconsideration by the Secretary (the Scheme) about the Scheme’s decision to end the resolution process.
- Parties can raise concerns with the ACC: Complainants and service providers can seek reconsideration about the Scheme’s decisions, while any person can seek review about the Scheme’s processes.
- Any person involved in the complaint can seek external reconsideration by the Commonwealth Ombudsman if dissatisfied with the Scheme’s processes or procedures.

*Note:* There is no legislated requirement for parties to approach the Scheme for reconsideration before seeking examination by the ACC or review by the Ombudsman, however, where possible, they should be encouraged to do so.

8.2 The department’s role where a concern is raised

Any person involved in a complaint process may, at any time during complaint handling, raise a concern about the process the Scheme is undertaking or the conduct of an officer.

The department has existing *policies and procedures* for dealing with such concerns or allegations. The DSS feedback team can receive concerns via:

Email: DSSfeedback@dss.gov.au

Post: DSS Feedback, PO Box 7576, Canberra Business Centre ACT 2610

*Important!* If officers receive complaints about their own conduct, or the conduct of another officer, this should immediately be raised with a manager and the concern referred to the DSS feedback team.

8.3 The Aged Care Commissioner’s review role

The functions of the ACC are set out in the Act and the Complaints Principles. Those functions which relate to complaint review are to:

- examine individual decisions of the Scheme, and
- consider complaints about the Scheme’s processes.
Only complainants and service providers can seek examination about the Scheme’s decisions, whilst any person involved in the complaint can seek examination about the Scheme’s processes for handling complaints.

The Scheme’s processes may also be examined on the ACC’s own initiative, or at the direction of the Minister.

Further information about ACC ‘decision’ and ‘process’ reviews are in this Chapter.

8.4 The Ombudsman’s review role

The Ombudsman investigates complaints from persons who believe they have been treated wrongfully, unfairly, unjustly or discriminated against by an Australian Government department or agency.

The Ombudsman is impartial and independent – not an advocate for complainants or for agencies. The Ombudsman can resolve disputes through consultation, negotiation and formal recommendations to the department. For example, the Ombudsman can recommend that remedial action be taken.

What can the Ombudsman review in relation to the Scheme’s complaint handling?

The Ombudsman can only look at the Scheme’s processes. If the Ombudsman finds that the Scheme has been deficient in its processes, the Ombudsman can make recommendations and findings. The recommendations and findings of the Ombudsman will be considered and acted upon by the Scheme where appropriate, as part of the Scheme’s broader commitment to continuous quality improvement.

8.5 Complaints management principles relevant to a review

All of the principles detailed in Chapter 3: Complaints Management Principles are relevant to the matters that will be considered by the Scheme through reconsideration. The principles are also considered by the ACC when examining the Scheme’s decisions and processes.

Reconsideration following completion of a resolution process

8.6 Who can seek reconsideration by the Scheme?

If a complainant or service provider is dissatisfied following resolution of a complaint and provision of feedback on the outcome, they can seek reconsideration by the Scheme.

Part 7 of the Complaints Principles allows complainants to apply to the Scheme for reconsideration of decisions to:

• take no further action under paragraph 7(a), or
• end the resolution process under Section 14.

Service providers have the capacity to apply for reconsideration of a decision to end the resolution process under Section 14.

The Complaints Principles restrict a complainant or a service provider from seeking reconsideration by the Scheme in circumstances where the Scheme has already undertaken a new resolution process as a result of a previous reconsideration application. The service provider may, however, seek reconsideration of a decision to issue directions that resulted from the new resolution process.
8.7 How are applications for reconsideration made to the Scheme?

Any application to the Scheme for reconsideration must state the reasons (other than dissatisfaction with the decision) why reconsideration is sought, and must be made within 28 days of the person being notified in writing of the original decision by the Scheme. Applications can be made orally or in writing.

8.8 Which officers in the Scheme can reconsider a decision?

A reconsideration must be undertaken by a delegate and officer who had no involvement in the original decision making process. The delegate undertaking the reconsideration (reconsideration delegate) should preferably be at a more senior level than the original decision maker.

8.9 Considerations when deciding whether a new process is necessary

Where an application for reconsideration has been received, the Scheme has 28 days to decide whether it will:

- confirm the decision to take no further action or end the resolution process, or
- undertake a new resolution process.

In considering whether a new process is necessary, officers should:

- discuss matters with the applicant to ensure that they are given the opportunity to explain their concerns and provide any new information to the Scheme
- closely review all existing case documentation, and
- where necessary, obtain any additional relevant information.

Officers should also consider whether:

- the applicant was afforded procedural fairness as part of the original decision making process
- the conclusions are reasonable and based on sufficient information
- there is any information that would suggest the original decision-making may have been misinformed, and
- there are any gaps or deficiencies in the original complaint documentation that suggest a new resolution process might be needed.

The absence of significant information might suggest a new resolution process is required.

Important! The officer’s rationale and recommendations regarding the outcomes of the reconsideration should be recorded in the reconsideration report. This is an internal report used for the management of complaints.

If a person is seeking reconsideration in relation to only some of the issues of the complaint, rather than all of the issues, officers need only reconsider those issues in relation to which an application for reconsideration was made. On reconsideration, the Scheme may also decide to confirm its original decision on some issues and undertake a new resolution process in relation to others.
8.10 What happens if the Scheme decides not to undertake a new resolution process?

If a reconsideration delegate decides not to undertake a further resolution process (that is, confirms the original decision), a letter must be sent to the applicant advising of this decision, including the reasons for the decision and their right to seek examination by the ACC.

Note: Officers are not required to advise other parties to the complaint of the decision not to undertake a new resolution process.

8.11 What happens if the Scheme decides to undertake a new resolution process

If the reconsideration delegate decides to undertake a new resolution process, a letter must be sent to the applicant and parties to the complaint advising of this decision and their right to seek examination by the ACC following the finalisation of the new process.

If the reconsideration delegate decides to undertake a new resolution process, the Scheme has 28 days from this decision to complete the process.

Important! The only circumstances in which an issue is not to be dealt with by the reconsideration delegate is where the applicant has raised a new issue that the Scheme has not previously made a decision on. Where this occurs, this issue is to be referred to intake by the reconsideration delegate to be managed as a new complaint.

8.12 Which officers will undertake the new resolution process?

If the reconsideration delegate decides a new resolution process is appropriate, wherever possible, the new resolution process should be undertaken and finalised by the same reconsideration delegate.

8.13 What resolution process does the officer undertake?

A new resolution process must be undertaken in accordance with Parts 3 to 5 of the Complaints Principles and Chapters 5 to 7 of these Guidelines, and will include:

- planning a new resolution process in consultation with the reconsideration delegate and seeking their approval of the proposed approaches to managing the new process. This will include creating the RARP in relation to the issues that are subject to a new resolution process
- advising the service provider and complainant (if any) of the decision to undertake a new resolution process
- reviewing all documentation associated with the original resolution process and making an assessment as to whether any additional information has been received which needs to be considered, and whether any further information needs to be gathered to fill in any gaps or clarify any matters
- talking with the parties to the complaint and seeking any further information they may be able to provide
- providing parties to the complaint with the opportunity to respond to any new information that is provided by another party
• if directions are proposed, developing a new notice of intention to issue directions report (NIIDR) and, where approved by the reconsideration delegate, issuing the notice of intention to issue directions (NIID) to the service provider and considering any response received
• documenting the new process and its findings in the detailed resolution report (DRR)
• providing the DRR and other supporting documentation to the reconsideration delegate for consideration of a new outcome decision, and
• advising the service provider, the complainant and any other parties to the complaint of the outcome of the new resolution process, including the rights of the service provider and the complainant to seek examination by the ACC.

Important! The Clinical Unit must be engaged to provide advice on review and reconsideration cases whenever the Scheme has been asked to reconsider a clinical issue and the Scheme did not obtain advice from the Clinical Unit during the original complaint. The Clinical Unit will only consider issues of a clinical nature.

8.14 Can the complainant and service provider seek external examination on the Scheme's reconsideration?

Where the Scheme undertakes a new resolution process as part of reconsideration, both the complainant and the service provider may seek examination by the ACC if the Scheme’s new decision is to end the resolution process. This must occur within 28 days of receipt of the Scheme’s written decision.

Where the Scheme decides to not undertake a new resolution process as part of a reconsideration (that is, the Scheme decides to confirm its original decision), the applicant may seek examination by the ACC of the Scheme’s decision.

Parties may also raise complaints about the resolution process with the Ombudsman.

Examination of Scheme decisions by the Aged Care Commissioner

8.15 What decisions are examinable by the ACC?

Part 7 of the Complaints Principles provides for complainants and service providers to seek examination of the Scheme’s decisions by the ACC.

Decisions under the Complaints Principles which are examinable by the ACC are:

• the decision to take no further action under paragraph 7(a)
• the decision to end a resolution process under Section 14, and
• the decision to confirm the original decision to take no further action or to end a resolution process when undertaking a reconsideration by the Secretary under paragraph 23(1)(a).

8.16 Who can seek examination of a Scheme decision by the ACC and when must they do so?

Decision to take no further action or confirmation of original decision
Only complainants can seek ACC examination of the Scheme’s decision to take no further action under paragraph 7(a) of the Complaints Principles.

Complainants must apply to the ACC within 28 days of receiving:

- the Scheme’s original written decision to take no further action, or
- the Scheme’s written decision on reconsideration to confirm the original decision.

**Decision to end the resolution process or confirmation of original decision**

A complainant or a service provider that has been party to a resolution process undertaken by the Scheme may seek ACC examination of the Scheme’s decision to end the resolution process.

The complainant or the service provider must apply to the ACC within 28 days of receiving:

- the Scheme’s original written decision to end a resolution process, or
- the Scheme’s written decision to end a new resolution process, if a new resolution process has been undertaken as part of a reconsideration by the Scheme.

The service provider can also apply to the ACC within 28 days of receiving the Scheme’s written decision to end an ACC-directed resolution process which resulted in directions being given that were not part of the original resolution process.

**8.17 How often can parties to the complaint seek ACC reconsideration?**

The parties to the complaint may only seek reconsideration by the Scheme once, and examination by the ACC once.

The only exception to this is as described above where as part of a new resolution process (following an ACC-directed resolution process), the Scheme gave directions to the service provider on issue(s) that were not part of the original resolution process. If this occurs, the service provider may seek further examination by the ACC.

**8.18 What should the application for an examination of a Scheme decision include and what actions can the ACC take?**

When making an application for examination by the ACC, the applicant must identify the reasons, other than mere dissatisfaction with the decision, why they wish the ACC to review the Scheme’s decision.

Within 14 days of receiving an application for examination of a decision made by the Scheme, the ACC must:

- decide to take no further action, or
- decide to examine the decision.

**8.19 On what basis can the ACC decide to take no further action on the application?**

The ACC may decide to take no further action under paragraph 26(2)(a) of the Complaints Principles in relation to an application for examination where:

- the application for examination was not made in good faith
• the application relates to an issue that has been, or is, the subject of a legal proceeding
• the application relates to an issue that is subject to a coronial inquiry
• a care recipient named in the application does not wish the matter to be considered by the ACC, or
• having regard to all the circumstances, examination of the decision is not warranted.

8.20 Who must be notified of the ACC’s decision about the application?

If the decision made by the ACC is to take no further action in relation to the application for examination, the ACC must notify the applicant and the Scheme of the ACC’s decision.

If the decision made by the ACC is to examine the Scheme’s decision, in addition to notifying the applicant and the Scheme, the ACC must notify:

• the service provider (if the complainant is the applicant), or
• the complainant (if the service provider is the applicant).

Note: There would be no need to notify a complainant if the original resolution process was an ‘own initiative process’ or if the complainant was anonymous or withdrew from the original resolution process.

8.21 What is the timeframe for the ACC to examine a decision?

If the ACC decides to examine the Scheme’s decision, the ACC has 60 days in which to undertake the examination and advise the Scheme of the decision.

The ACC may choose to provide the Department with the preliminary findings for comment prior to the final report.

8.22 What participation in the examination process may the ACC request from the Scheme?

The Complaints Principles and the Act allow the ACC to examine a decision of the Scheme in whatever manner the ACC considers appropriate and to request information relevant to a matter under examination.

The ACC will be given access to documentation held by the Scheme in relation to the case, including material held on the Scheme’s official information management system.

If considered necessary, the ACC may talk to officers who were involved in the original resolution process. If requested, officers will participate in this process.

Section 95A-1(3) of the Act requires the Scheme to provide the ACC with any information available to the Scheme that the ACC may request that relates to ACC functions.

8.23 What can the ACC decide during and at the end of an examination of a Scheme decision?

At any time during the examination process, the ACC may decide to take no further action.
At the end of an examination, the ACC may:

- recommend the Scheme not undertake a new resolution process, or
- direct the Scheme to undertake a new resolution process.

**Note:** The ACC may direct the Scheme to undertake a resolution process for some of the decisions examined and not others.

Where the ACC directs the Scheme to undertake a new resolution process, the ACC may also identify other matters the Scheme must take into account in undertaking the new resolution process.

For example, the ACC might have identified that the Scheme failed to take into account relevant information. If this is the case, the ACC could direct the Scheme to undertake a new resolution process and require the Scheme to take the additional information into account.

### 8.24 What action is required by the Scheme if the ACC recommends a new process not be undertaken?

Where the ACC recommends the Scheme not undertake a new resolution process, the ACC must advise, in writing, the parties to the complaint as well as the Scheme of this decision.

If this is the case, the network office involved notes the ACC’s recommendation and closes the case on the Scheme’s official information management system.

### 8.25 What action is required by the Scheme if the ACC directs that a new process be undertaken?

If the ACC decides to direct the Scheme to undertake a new resolution process, the Scheme will receive this advice in writing. The Scheme must:

- undertake the new process within 46 days
- consider any matters which the ACC specifies that the Scheme must take into account in undertaking the new resolution process, and
- undertake the new resolution process in accordance with Parts 3 to 5 of the Complaints Principles (refer to Chapters 5 to 7 of these guidelines).

The ACC may direct the Scheme to undertake a new process in relation to only some of the issues examined by the ACC. The Scheme is only required to undertake a new process in relation to those issues identified by the ACC.

**Undertaking the new resolution process**

The delegate, who will be a different delegate to the one who made the original decision, must undertake a new resolution process and take any matters specified by the ACC into account.

The Scheme officer undertaking the new resolution process must:

- advise the service provider and the complainant (if any) of the new resolution process following the ACC’s direction
• plan the new resolution process in consultation with a manager and seek the manager’s approval of the proposed approach. This will include the development of a RARP in relation to the issues being reviewed
• review all documentation associated with the original resolution process and decide whether this information needs to be reassessed in light of any new information received and whether any further information gathering needs to be undertaken to fill in any gaps or clarify any matters
• review and assess documentation provided by the ACC to inform decision making
• talk with the parties to the complaint about the issues of concern and seek any further information they may be able to provide, and
• provide parties with the opportunity to respond to any new information that is provided by another party.

Important! The Clinical Unit must be engaged to provide advice on review and reconsideration cases whenever the Scheme has been asked to reconsider a clinical issue. The Clinical Unit will only consider issues of a clinical nature.

Draft feedback report required by the ACC before finalising the ACC-directed new resolution process

Before finalising the new resolution process the Scheme must inform the ACC of the reasons the Scheme is considering ending the process. Scheme officers must provide these reasons in a draft feedback report which must:

• clearly address the issues identified by the ACC, and
• be submitted to the Aged Care Complaints Branch in National Office for quality assurance and approval before finalisation.

The ACC may consider the draft feedback report and provide any comments to the Scheme within seven days.

Providing the final decision on the ACC-directed new resolution process to the complaint parties and ACC

The delegate has nine days to take into account any further comments provided by the ACC and consult with the applicant before finalising the decision on the new resolution process.

All parties to the complaint, including the ACC, are to be provided with the final written report within the 46 day timeframe (unless extended by a further 28 days as discussed below). Officers need to consider whether parties should also be advised of the outcome by telephone once the decision is finalised.

8.26 What action is required if the Scheme considers directions may be necessary during an ACC-directed new resolution process?

If, as the result of a new resolution process the reconsideration delegate considers issuing directions to the service provider might be necessary, the Scheme will follow the steps outlined in Chapter 6 to either:
• issue a notice of intention to issue directions (NIID) to the approved provider before issuing directions, or
• go straight to issuing directions where prompt action is warranted.

The steps would include, as relevant, completing a NIID Report, reviewing the service provider’s response to NIID and issuing directions where required. Officers will document the new process and its findings in the Detailed Resolution Report (DRR).

The Scheme may issue a NIID or direction during an ACC-directed new resolution process without informing the ACC beforehand. However, the Scheme must provide findings to the ACC before finalising the case.

Where the service provider has responded to a NIID, the Scheme will provide its draft feedback report to the ACC for comment before finalising the resolution process.

Where directions are issued, the proposed reasons for ending the new resolution process on that basis, need to be provided to the ACC before finalising the case under Section 14 of the Complaints Principles 2014.

8.27 Extension to the Scheme’s 46 day timeframe for an ACC-directed new resolution process

The 46 day timeframe for undertaking a new resolution process may be extended by 28 days in exceptional circumstances or where extending the timeframe is likely to allow the Scheme to achieve better outcomes for the care recipient/s.

Important! Delegates must discuss potential extensions with the Aged Care Complaints Branch in National Office.

8.28 What can the ACC do if dissatisfied with the Scheme’s response to their direction to undertake a new resolution process?

The ACC may, at any time, give a written report to the Minister on any matter relating to the ACC’s functions under Section 95A-11A of the Act. This may include reporting to the Minister if the ACC is dissatisfied with the Scheme’s response to a direction from the ACC.

Complaints to the Aged Care Commissioner about the Scheme’s process

8.29 Who can seek a process examination and when must they do so?

Part 7 of the Complaints Principles provides for any party to the complaint to seek examination by the ACC of the Scheme’s processes for handling complaints. The Scheme’s processes may also be examined on the ACC’s own initiative, or at the direction of the Minister.

Parties to the complaint have 12 months from the date of the completion of the process to lodge their complaint about the Scheme’s process with the ACC.

8.30 What actions can the ACC take about a process complaint application?
Within 14 days of receiving a complaint about the Scheme’s process for handling complaints, the ACC must decide whether to examine the complaint. The ACC may decide not to examine the complaint on the basis that the ACC is satisfied that the complaint does not relate to a function of the ACC or because the ACC is satisfied that:

- the complaint was not made in good faith
- the complaint relates to an issue that is, or has been, the subject of a legal proceeding
- the complaint relates to an issue that is subject to a coronial inquiry
- the complaint was made by a person that the ACC does not consider has a sufficient interest in the issue, or
- having regard to all the circumstances, examination of the complaint is not warranted.

At any time during the examination process, the ACC may decide to take no further action in accordance with paragraph 31(2) of the Complaints Principles.

8.31 Advising the parties about the ACC’s decision on undertaking an examination of the Scheme’s processes

If the ACC decides it will not undertake an examination of a complaint, the ACC must, as soon as practicable, tell the person making the complaint of the decision.

If the ACC decides it will undertake an examination of a complaint, the ACC must, as soon as practicable, tell the person making the complaint of the decision and give the Scheme information about the nature and substance of the complaint. This information must be given to the person making the complaint and the Scheme in writing.

8.32 In what timeframes must the ACC examine the process complaint?

If the ACC decides to examine a complaint about the Scheme’s complaints handling process, there are no legislated timeframes within which this must be completed.

8.33 What participation in the examination process may the ACC request from the Scheme?

The Complaints Principles and the Act allow the ACC to examine a decision of the Scheme in whatever manner the ACC considers appropriate and to request information relevant to a matter under examination.

The ACC will be given access to documentation held by the Scheme in relation to the case, including material held on the Scheme’s official information management system.

If considered necessary, the ACC may talk to officers who were involved in the original resolution process. If requested, officers will participate in this process.

8.34 What feedback is provided by the ACC on the outcome of a complaint process examination?

Following examination of a complaint by the ACC, the ACC must notify the person who made the complaint about the process and the Scheme about the outcomes of the examination.
8.35 What is the Scheme required to do on receipt of process review outcomes?

Officers will refer to internal protocols for responding to the ACC about the outcome of the examination of complaints about the Scheme’s processes.

Any recommendations made by the ACC will be considered by the Scheme as part of its broader commitment to continuous quality improvement.
Chapter 9: Service Provider Notifications

This chapter provides information about how the Scheme manages service provider notifications during the intake phase.

**Intake Phase**

**Detailed Assessment Phase**

**Resolution Phase**

**Outcome Phase**

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Guidelines for the Aged Care Complaints Scheme

Chapter 9: Service Provider Notifications

Activity 5: Taking further action based on a notification

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**Note:** For information on the management of complaints in relation to Australian Government subsidised aged care programmes under a Comprehensive Grant Agreement, refer to Chapter 10 of these Guidelines.

**Note:** Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority.

Overview of service provider notifications

9.1 What is a notification?

A notification is information provided to the Scheme by a service provider about:

- a reportable assault
- a missing care recipient
- a natural disaster, or
- an emergency event.

**Note:** Service providers are not required to notify the Scheme about an infectious disease outbreak. State and Territory Public Health Units (PHU) have responsibility for managing notifiable diseases.

Notifications do not constitute a complaint under the Complaints Principles. However, assessment of the issues arising from the notification might result in the issues/s being:

- examined by the Scheme as an own initiative resolution process if they relate to a service provider’s responsibilities, or
- referred to another organisation (for example, the Quality Agency, the police, AHPRA).

9.2 Complaints management principles relevant to intake of service provider notifications

In responding to notifications during the intake phase, officers should have particular regard to the complaints management principles set out below. Officers will:

- explain service provider notification responsibilities and the Scheme’s processes to service providers
- respond to service provider notifications in a way that will achieve a timely, proportionate and positive outcome for care recipients
• support open and timely communication with service providers when managing notifications
• promptly escalate matters in accordance with the Scheme’s risk management framework
• check and clarify information to avoid unwarranted assumptions and draw accurate conclusions, and
• ensure that all relevant information is recorded in a timely manner on the Scheme’s official information management system.

### 9.3 Key activities in managing notifications

**Activity 1: Receiving service provider notifications** - Service providers contact the Scheme to meet their compulsory reporting responsibilities or to make other notifications.

**Activity 2: Escalating notifications to a manager** - To support consistent, rigorous and timely decision making, officers need to escalate notifications to a manager within the timeframe set out in the intake escalation matrix (IEM) to ensure managers have oversight and early input into the complaints resolution process.

**Activity 3: Collecting information** - The level of information required will vary depending on the notification event, the service provider’s response to the event and any risks associated with it. For compulsory reporting, officers will need to obtain information that demonstrates service providers have met their responsibilities.

**Activity 4: Assessing the notification** - To assist in determining how to manage a notification, an assessment is undertaken of the information gathered. This assessment will be proportionate to the details of the notification.

**Activity 5: Taking further action based on a notification** – If a service provider has met its obligations, no further action is required. In circumstances where the Scheme cannot be satisfied that the service provider has taken appropriate action or is meeting its responsibilities under the Act, a resolution process can be initiated based on information arising from a notification. This is known as an own initiative resolution process. A referral to another organisation may also be actioned.

### Activity 1: Receiving service provider notifications

### 9.4 Types of service provider notifications the Scheme receives

Notifications are managed on the Scheme’s official information management system. There are two types of service provider notifications received by the Scheme.

1. **Compulsory notifications**

   Compulsory notifications are a legislated responsibility for service providers of residential care, and include reportable assaults and unexplained absences of care recipients of aged care services. Service providers under a Comprehensive Grant Agreement may also have these compulsory reporting responsibilities.

   **Note:** The Scheme is the first point of contact for service providers making notifications on reportable assaults and unexplained absences of care recipients in residential care. This includes notifications from service providers funded under the National Aboriginal and Torres Strait Islander Flexible Aged Care Programme.
2. Non-compulsory notifications
Service providers voluntarily contact the Scheme to advise of critical events that might impact on the safety, health or wellbeing of care recipients of aged care services.

Note: If the Scheme is notified about an infectious disease outbreak, the information is out-of-scope and should be referred to the Quality Agency through local communication protocols. The Quality Agency and PHUs have processes to respond to this type of notification.

9.5 How the Scheme handles information privacy requirements related to notifications
Officers must ensure that all personal and sensitive information received by the Scheme is handled appropriately in regards to the APPs.

Where the Scheme collects personal information through a notification, officers are not required to notify an individual about collection of their personal information where it is not reasonably practicable or where it may pose a serious threat to the life, health or safety of any individual. To apply this exemption a manager must make this determination based on the circumstances identified in the notification.

9.6 Non-compulsory notifications – What is an emergency event?
The Scheme supports a broader notification process for the department and the Australian Government in relation to emergency events when they impact upon Australian Government subsidised aged care services. Emergency events may include: floods, fires, gas leaks, bushfires, cyclones and other natural or man-made events.

9.7 Compulsory notifications - What is a reportable assault or unexplained absence?

Reportable assault
A reportable assault is defined in the Act under Section 63(1)(AA) as:

- unlawful sexual contact with a care recipient of a residential aged care service, or
- unreasonable use of force on a care recipient of an aged care service.

This definition is simple and readily understood. It avoids the difficulties of applying legalistic definitions that vary throughout Australia.

Unexplained absence
An unexplained absence is defined in Section 25 of the Accountability Principles 2014 whereby:

- a care recipient is absent from a residential care service, and
- the absence is unexplained, and
- the absence has been reported to the police.
9.8 When must service providers make a compulsory notification and who should contact the Scheme?

Service providers must notify the Scheme within 24 hours of:

- receiving an allegation of, or suspecting on reasonable grounds, a reportable assault has occurred, or
- informing the police that a care recipient is absent from a residential aged care service (unexplained absence).

Service provider key personnel (as defined under the Act) are expected to make notifications.

However, given the 24 hour timeframe for compulsory notifications, the Scheme expects that the most senior person working within the service would make the notification. This might be a person who is not key personnel. For example, if an incident occurs on a weekend the most senior person might be the registered nurse in charge. To meet the reporting requirements this staff member might have to notify the Scheme.

9.9 What should I do when other people report a missing care recipient

If a person other than a service provider notifies the Scheme about an unexplained absence of a care recipient, this information should be managed as if it were a complaint and officers should check if a report to the police has been made.

**Important!** In these circumstances officers should discuss the complaint with a manager as it is likely that the matter would be assessed as ‘significant’ for appropriate management.

9.10 How do service providers make notifications?

Service providers are encouraged to contact the Scheme on 1800 550 552.

**Note:** The Scheme can receive service provider notifications orally, in writing (fax or email) or in person. For example, a notification could be made in person if an incident occurs or has recently occurred at a service that officers are visiting for other reasons.

The Scheme operates from:

- 9.00am – 5.00pm (local time) on weekdays
- 12.00pm – 5.00pm (AEST) on weekends and public holidays.

Outside of these hours service providers can leave a message on the Scheme’s answering machine. Officers will respond to the notification on the next working day.

**Activity 2: Escalating notifications to a manager**

9.11 Why and when to use an intake escalation matrix (IEM) for notifications

Officers should use an IEM for all notifications; a specific IEM for compulsory reporting must be used for compulsory reports. The IEM is a decision making tool that:
• enables officers to perform an initial risk assessment on a notification in a structured and systematic way,
• ensures a nationally consistent approach to risk assessment, and
• enables officers to determine a timeframe within which to progress a notification and/or provide a response, based on the information received at the initial contact.

9.12 Important timeframes for Scheme officers to escalate a compulsory notification

Officers should determine the timeframe for escalating a compulsory notification to a manager as soon as possible after the compulsory report is received.

The IEM for compulsory reporting ensures managers will be informed of all notifications received by the Scheme immediately if of significant concern, or within 48 hours at most. This provides managers with early oversight and timely input into the complaints resolution process where this is required.

Activity 3 and 4: Assessing reportable assault information

9.13 Information the Scheme needs to respond to reportable assaults

In responding to reportable assaults involving care recipients the Scheme aims to ensure that service providers meet their responsibilities under the Act by ensuring that:

• care recipients involved in an alleged or suspected assault have received appropriate care and support
• service providers have measures in place to ensure that care recipients are safe
• service providers have complied with their compulsory reporting requirements, and
• service providers have appropriate procedures and protocols in place to meet compulsory reporting requirements.

Officers need to collect information to:

• establish the details of the alleged or suspected assault
• establish if the alleged or suspected assault has been reported to the police and, if not, request the service provider advise when the report has been made to the police. If not reported to the police, the Scheme may consider making a referral to the relevant state or territory police service
• advise any person who makes a report of the protections in place and whether and how the discloser qualifies for protection. If a staff member makes a disclosure qualifying for protection under the Act, the service provider must protect the identity of the staff member and ensure that the staff member is not victimised. This is important in encouraging ongoing reporting by staff members
• establish that care recipients are not at further risk from the alleged offender.
9.14 Assessing when a service provider is not required to report

In very limited circumstances a service provider is not required to notify the Scheme or the police of a reportable assault. This specifically relates to where the perpetrator (alleged offender) is a care recipient of an aged care service.

There are two circumstances where an approved provider is not required to report:

- The first circumstance is when an allegation or suspicion is the same or substantially the same factual situation or event as an earlier allegation or suspicion, and the earlier allegation or suspicion has been already reported to the police and the Secretary.
- The second circumstance is when an approved provider believes that the alleged or suspected assault was committed by a care recipient with an assessed cognitive or mental impairment as long as:
  - A documented assessment by a health professional was in place before the service provider was aware of the alleged or suspected assault and copies of documentation supporting the assessment are on record.
  - Within 24 hours of becoming aware of the alleged or suspected assault the service provider put in place strategies to manage the care recipient's behaviour. These new arrangements need to be recorded.

Note: The above circumstances do not prevent a service provider notifying the police and the Scheme of the reportable assault.

However, if these conditions have not been met the service provider must notify the police and the Scheme of the reportable assault within 24 hours of receiving the allegation or suspicion.

9.15 Determining the Scheme’s response to a reportable assault

To ensure a timely, effective and proportionate response to all alleged or suspected assaults, officers should assess information to determine whether the service provider has met its responsibilities under the Act. This includes:

- ensuring that the reportable assault has been reported within the 24-hour timeframe to the police and to the Scheme
- confirming that reasonable measures have been taken to ensure staff report any suspicions or allegations to the service provider (or other authorised person), or to the police or the Scheme
- ensuring that current police checks of staff and volunteers are in place, if relevant
- ensuring that the service provider has appropriate systems and processes in place for compulsory reporting
- ensuring that consolidated records are kept of reportable assaults
- ensuring there is appropriate medical care and support for the care recipients involved in a reportable assault, and
• ensuring that the service provider has notified family members and/or representatives of affected care recipients.

**Important!** A manager will assess the details and information from the notification and indicate what further action is to be taken.

**Activity 3 and 4: Assessing unexplained absence information**

**9.16 When must a service provider make an unexplained absence notification**

If a care recipient's absence is 'unexplained' and the police have been involved, service providers must notify the Scheme within 24 hours of informing the police that a care recipient is absent from the service. This includes where a care recipient has been found and returned to the service by the police and the absence is 'unexplained'; in this instance the absence is deemed to have reported to the police.

No notification is required if the absence is not 'unexplained' or the police have not been involved. For example, where a care recipient is:

• returned to the service by a person other than the police and the service provider has not reported this to the police, or
• known to be temporarily absent and is then returned by the police.

A manager will assess the details and information from the notification and indicate any further action to be taken.

**Activity 3 and 4: Assessing emergency event information**

**9.17 Collecting key information about an emergency event notification**

In most states and territories the Scheme receives emergency event notifications. The processes for managing these notifications vary from jurisdiction to jurisdiction as they:

• tend to deal with different types of emergencies (for example, bushfires, cyclones or floods), and
• are subject to state/territory government changes in policy and approach (for example, annual bushfire or flood season).

**Important!** Officers should be aware of local arrangements. These should be documented within each Network office.

**Key information to collect in responding to emergency event notifications**

If a service provider notifies the Scheme that there is a local emergency event or that an aged care service is threatened by an imminent emergency, officers should:

• confirm the contact details of the caller and an alternate contact for the service provider
• identify the nature of the threat and whether the service provider has activated its emergency management plan
• ascertain whether the service provider has contacted its local emergency authority and, if not, advise them to do so to obtain up-to-date information specific to the threat
• ascertain whether the service provider requires assistance in identifying alternate accommodation options in the event of an evacuation.

Where assistance is required, advise the caller that someone from the relevant Network office will be in touch with them to assist in this regard.

Where assistance is not required, advise the caller that, should this change, the department can assist with identifying accommodation options and ask the caller to advise the department as soon as practicable if care recipients are evacuated.

9.18 When are emergency events considered significant?

Emergency event notifications are significant when:

• there is a current or imminent risk of significant harm to the safety, health or wellbeing of care recipients, or
• the notification is accompanied by another risk factor of concern such as:
  • current non-compliance at the service or the service is under sanctions
  • the presence of an infectious disease or another emergency event, and/or
  • the matter might be contentious.

The risk associated with an emergency event notification should be reviewed regularly as circumstances might change.

As part of the emergency event notification risk assessment, officers should:

• identify whether other services in the area may be affected and make contact with those services to offer assistance, and
• consider escalation to the relevant manager and senior executives in national office.

Important! Where a significant emergency event occurs, managers might need to recall officers to work in order to ensure the safety, health and wellbeing of care recipients.

Activity 5: Taking further action based on a notification

9.19 Reportable assault notification - No further action

No further action needs to be taken if, following the assessment, officers establish that:

• care recipients involved in the alleged or suspected assault have received appropriate care and support
• care recipients are safe
• the service provider has complied with its compulsory reporting requirements, and
• the service provider has appropriate systems and processes in place for compulsory reporting.
The notification can be finalised with a letter to the service provider stating that it has met its obligations and no further action is required.

9.20 Reportable assault notification - Own initiative concern

A resolution process can be initiated based on information arising from a notification. The notification may be progressed through an own initiative resolution process if, following the assessment, officers cannot establish that:

- care recipients involved in an alleged or suspected assault have received appropriate care and support
- care recipients are safe
- the service provider has met its compulsory reporting requirements, and
- the service provider has appropriate systems and processes in place for compulsory reporting.

9.21 Unexplained absence notification - No further action

No further action needs to be taken if, after the assessment, officers establish that:

- the missing care recipient is safe and well
- the service provider has, where necessary, put strategies in place to minimise the risk of recurrence, and
- the service provider has appropriate systems and processes in place for compulsory reporting.

The notification can be finalised with a letter to the service provider stating that it has met its obligations and no further action is required.

9.22 Unexplained absence notification - Own initiative concern

A resolution process can be initiated based on information arising from a notification. The notification may be progressed through the complaints resolution process as an own initiative concern if, following the assessment, officers cannot establish that:

- the missing care recipient is safe and well
- the service provider has, where necessary, put strategies in place to minimise the risk of recurrence, and
- the service provider has met its compulsory reporting requirements.

9.23 Emergency event notification - Referrals to the Australian Aged Care Quality Agency

Officers should consider sending a referral to the Quality Agency regarding an emergency event for its information and/or consideration.

Important! Officers should consult with managers about the referral type if the matter has been escalated.
Chapter 10: Complaints Management for Aged Care Programmes under Grant Agreements

This chapter provides information on the regulatory framework and complaints management process for aged care programmes subsidised under Comprehensive Grant Agreements. The complaints management process includes an initial phase of service provider local level management prior to the intake, detailed assessment, resolution and outcome phases.

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In responding to complaints related to service providers under Comprehensive Grant Agreements, officers should have regard to all the complaints management principles set out in Chapter 3: Complaints Management Principles.

In addition, as relevant to CHSP and NATSIFACP
Guidelines for the Aged Care Complaints Scheme

### Chapter 10: Complaints Management for Aged Care Programs under Grant Agreements

#### Section 10.11 Sub-contractor requirements to participate in the Scheme's complaint management process

- encourage complainants to engage in local level management in the first instance, as in most cases, service providers are best placed to resolve complaints and alleviate client concerns
- comply with administrative powers and authority as outlined in the Comprehensive Grant Agreement, and
- comply with information disclosure requirements relevant to administrative arrangements.

#### Powers of officers under the Comprehensive Grant Agreement

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**Note:** For information on the management of complaints in relation to Commonwealth HACC subsidised aged care programmes under a contractual agreement, refer to Chapters 10 and 11 of the *Guidelines for the Aged Care Complaints Scheme version 2*.

**Note:** Reference to an ‘officer’ includes both an officer and a manager. A ‘delegate’ refers to an individual with a delegated authority. Reference to a ‘service provider’ is used instead of the term ‘grant recipient’ from the Comprehensive Grant Agreement. Reference to a ‘client’ refers to a person received care and services under the Commonwealth Home Support Programme or the National Aboriginal and Torres Strait Islander Program.

### Aged care programmes under a Comprehensive Grant Agreement that are within the Scheme's jurisdiction

#### 10.1 The Commonwealth Home Support Programme

The Commonwealth Home Support Programme (CHSP) builds on the strengths of home support programmes which came before it and from 1 July 2015 consolidates the following programmes to create a streamlined source of support for frail, older people living in the community and their carers:
• The Commonwealth Home and Community Care (HACC) Program
• The National Respite for Carers Program (NRCP)
• The Day Therapy Centres (DTC) Program
• The Assistance with Care and Housing for the Aged (ACHA) Program.

The CHSP delivers an entry-level tier of care and support to a large number of frail, older people to help them to remain living at home. The CHSP is under the Scheme's jurisdiction from 1 November 2015.

**Note:** Commonwealth HACC subsidised aged care programmes remain within the Scheme's jurisdiction under continuing Funding Agreements until they are covered under CHSP Comprehensive Grant Agreements from 1 November 2015. The complaints management framework and complaints process for Commonwealth HACC are outlined in Chapters 10 and 11 of the 'Guidelines for the Aged Care Complaints Scheme version 2'.

**HACC services in Western Australia and Victoria**

The CHSP does not apply to HACC services in Western Australia and Victoria. Basic home services continue to be provided to the frail aged under the jointly-funded Western Australian and Victorian HACC Programs. The Scheme has jurisdiction to deal with complaints relating to the quality of Commonwealth funded services and as such is not able to consider complaints about HACC services funded by the Victorian Government or the Western Australian Government.

**Note:** Older people in Western Australia and Victoria previously supported under the NRCP, DTC and ACHA programmes can access support under the Commonwealth Home Support Programme.

10.2 **The National Aboriginal and Torres Strait Islander Flexible Aged Care Programme**

The National Aboriginal and Torres Strait Islander Flexible Aged Care Programme (NATSIFACP) is a component of the Residential and Flexible Care Programme and is administered outside of the *Aged Care Act 1997* (the Act). It funds organisations to provide flexible, culturally appropriate aged care to older Aboriginal and Torres Strait Islander people close to their home and/or community.

Services funded under the NATSIFACP are mainly located in rural and remote areas and deliver a mix of residential and home care services in accordance with the needs of the older Aboriginal and Torres Strait Islander community.

The NATSIFACP is under the Scheme's jurisdiction from 1 July 2015.

10.3 **Understanding the regulatory framework for aged care programmes under a Comprehensive Grant Agreement**

**The complaints and compliance administrative regulatory framework**

The complaints and compliance administrative regulatory framework for aged care programmes under a Comprehensive Grant Agreement is similar to the complaints and compliance framework for care and services under the Act (refer to Chapter 1: Governance Framework). Service providers funded through a Comprehensive Grant Agreement have administrative responsibilities rather than legislative responsibilities thus
they operate under an administrative regulatory framework (Figure 1). The key differences are:

- Service provider local level management of CHSP and NATSIFACP complaints in the first instance.
- The complaint resolution approach and outcomes may result in action under the Comprehensive Grant Agreement with the Commonwealth (in contrast to compliance actions under the Act such as sanctions), and
- CHSP and NATSIFACP complaint review mechanisms involve reconsideration by the department and review by the Commonwealth Ombudsman. As these programmes are not covered by a legislative framework, there is no recourse to the Aged Care Commissioner or the Administrative Appeals Tribunal or under the Administrative Decisions (Judicial Review) Act 1997.

The regulation of CHSP and NATSIFACP services is governed through Comprehensive Grant Agreements and associated documents. For detail refer to Topic 10.4.
Figure 5. The Complaints and Compliance Administrative Regulatory Framework

Government areas operating under the administrative regulatory framework for quality aged care services under a Comprehensive Grant Agreement

The administrative regulatory framework applies to the operations of and interactive relationships between the following government areas that monitor the quality of aged care services:

- the **Scheme** which receives, assesses and resolves complaints related to clients/care recipients receiving CHSP or NATSIFAC services
- the **Quality Agency** which is responsible for monitoring the quality of services under the:
  - CHSP against the Home Care Standards, or
  - NATSIFACP against the NATSIFACP Quality Framework, and
• the department where grant management and programme areas are responsible for grant management and undertaking compliance action under the agreement.

Information can be shared between the Scheme, the department’s grant management and programme areas and the Australian Aged Care Quality Agency (Quality Agency) to assist each area in performing its regulatory functions.

**The Quality Agency**

The Quality Agency does not consider complaints about individual care issues; rather, it ensures there are systems and processes in place that provide quality care delivery to individuals receiving aged care services. Further information about the Quality Agency’s role is in Chapter 1: Governance Framework.

**Note:** Only those CHSP Sub-Programmes under which direct care is delivered to clients (all Sub-Programmes except the ACHA Sub-Programme and the Service System Development Sub-Programme) will be subject to Quality Reporting by the Quality Agency.

**Grant management and programme areas**

The grant management area, and in some circumstances programme area, is responsible for managing:

• service providers’ Comprehensive Grant Agreements and undertaking action under the agreement
• service provider notifications about an issue that may delay, stop or adversely affect care and service delivery (including serious incidents and for NATSIFACP, reportable assaults), and
• complaints related to funding and access to services.

**Service Provider Comprehensive Grant Agreement requirements and the impact on the Scheme**

**10.4 Administrative responsibilities of service providers under a Comprehensive Grant Agreement**

The Comprehensive Grant Agreement consists of a number of documents which form the contract between the service provider and the Commonwealth. The Comprehensive Grant Agreement outlines the service provider’s administrative responsibilities. The provisions in the documents take priority in the following order:

• The Supplementary Conditions (if any) – are applicable to each service provider
• The Terms and Conditions - are applicable to all service providers. Service providers have agreed to the Terms and Conditions by signing the Schedule.
• The Schedule –is specific to each service provider. It details the services that the service provider is required to deliver, the funding it will receive to deliver these services and any special conditions with which the service provider must comply. The Schedule is signed by a representative of the Commonwealth and the service provider.
Service provider responsibilities are further detailed in various documents that are linked to the Schedule such as:

- Programme Manuals or Guidelines
- Charter of Rights and Responsibilities - Residential Care or Home Care
- Home Care Standards or Quality Framework Standards
- Police Certificate requirements.

10.5 The CHSP Programme Manual

The CHSP Programme Manual 2015 sets out the operational and administrative requirements supporting the delivery and management of CHSP from 1 July 2015. Service providers must comply with the manual’s requirements regarding the:

- delivery of Commonwealth Home Support Programme services including operational requirements (Part A – The Programme and Appendices), and
- administration of the Commonwealth Home Support Programme, including funding and reporting arrangements (Part B – Administration of the Programme and Appendices).

The manual outlines the services types that are available under the CHSP. These service types are funded under specific Sub-Programmes based on the CHSP ‘target groups’. Details of each Sub-Programme, including eligibility and service types, and examples of special conditions for service delivery to ‘non-target groups’ are also provided in the manual.

Note: The CHSP Programme Manual 2015 does not apply to HACC service providers funded by the Western Australia or Victoria governments.

Note: Commonwealth HACC subsidised aged care programmes remain under continuing Funding Agreement requirements and the Commonwealth HACC Program Manual 2012 until 31 October 2015.

The scope of CHSP and other service eligibility

People who are assessed as eligible to receive other aged care or disability services may access CHSP funded services and support in certain circumstances. This is to ensure people can access services until more appropriate care is available. The CHSP Schedule and the CHSP Programme Manual 2015 specify where CHSP service providers can deliver services to clients with other service eligibility.

For example, clients assessed as eligible but waiting to receive a Home Care Package or clients of previous programmes (Commonwealth HACC, NRCP, DTC and ACHA programmes) who are not eligible for similar Commonwealth Home Support Programme services will be grandfathered until suitable services become available.

Important! Officers need to collect enough information during the intake phase to determine whether a client is receiving CHSP services and thus whether the information is in-scope for the Scheme.

10.6 The NATSIFACP Guidelines

The Residential and Flexible Care Programme - National Aboriginal and Torres Strait Islander Flexible Aged Care Activity Programme Guidelines June 2015, set out the
operational and administrative requirements supporting the delivery and management of NATSIFACP. Service providers must comply with the manual's requirements regarding the:

- The NATSIFACP activities (Activity Overview and Programme Guidelines)
- Terms and conditions applying to Selection/s, Financial and Other Arrangements, and Complaints.

The manual outlines the entity types that are eligible to provide NATSIFACP services and the NATSIFACP ‘target groups’.

10.7 Complaints mechanisms and service provider requirements

Service provider requirements for the management of complaints are included through the various Comprehensive Grant Agreement documents. Service provider's need to provide an effective process for receiving and addressing complaints and should use their complaints management process to achieve the best outcome for clients and to identify options for continuous improvement.

Complaints mechanisms

Service providers are required to encourage clients and their carers to provide feedback about the services they receive. CHSP and NATSIFACP clients or their representative can raise a complaint with:

- The service provider directly.
- The Department at the feedback facility (www.dss.gov.au) or by email to DSSfeedback@dss.gov.au.
- The Scheme.

Below is a list of the Comprehensive Grant Agreement documents with a description of the service provider responsibilities and references relative to complaint mechanisms.

<table>
<thead>
<tr>
<th>Comprehensive Grant Agreement document</th>
<th>Description of service provider responsibilities</th>
<th>References relevant to complaint mechanisms</th>
</tr>
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| DSS Comprehensive Grant Agreement – Terms and Conditions | The Terms and Conditions address:  
  - Definitions and Duration  
  - What the [service provider] must do  
  - About the Grant  
  - Assets  
  - Material and Information  
  - Disclosure of Information  
  - Working with Vulnerable Persons  
  - Dealing with Risk  
  - Terminating the Agreement  
  - Other Legal Matters | Include key requirements regarding:  
  - the service provider’s documented complaints process and  
  - the external complaints service, via the department and assistance with complaint investigation.  
Other requirements relevant to Scheme processes include:  
- Access to premises and records, including the service |
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<th>Comprehensive Grant Agreement document</th>
<th>Description of service provider responsibilities</th>
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| Refer to: DSS Comprehensive Grant Agreement | provider's complaints register.  
• Disclosure of confidential information.  
• Providing a written notice. |
| Schedule – Comprehensive Grant Agreement | The Schedule addresses:  
• Programme information  
• Activity Information (e.g. comply with listed guides/policies)  
• Grant and Payment  
• Budget  
• Reports | Item B.1 - Comply with the [relevant] Programme Guidelines |
| Home Care Standards  
(refer to Schedule 4 of the Quality of Care Principles 2014) | The Home Care Standards apply to services under the CHSP.  
There are three Standards: Effective Management; Appropriate Access and Service Delivery; and Service User Rights and Responsibilities.  
There are 18 expected outcomes: eight management outcomes; five service delivery outcomes; and five service user rights outcomes. | Expected outcome 3.3: Complaints and Service User Feedback - Complaints and service user feedback are dealt with fairly, promptly, confidentially and without retribution.  
Also refer to Expected outcomes 1.3;1.5, 3.1, 3.2 |
| NATSIFACP Quality Framework | The standards within the NATSIFACP Quality Framework apply to services under the NATSIFACP.  
There are two Standards: Care Delivery and Information; Management and Accountability.  
There are 9 expected outcomes: five care delivery and information outcomes and four management and accountability outcomes. | Expected outcome 2.2 Management Systems – Services have an accessible, culturally safe/retribution free complaints and feedback process |
| Charter of rights and responsibilities - residential care or home care  
(refer to the User Rights Principles 2014) | The Charter of care recipient rights and responsibilities - residential care (Schedule 1) and home care (Schedule 2) apply to services under the NATSIFACP.  
The Charter of care recipient rights and responsibilities - home care (Schedule 2) apply to services under the CHSP. | The Charters aim to ensure that clients are aware of and confident in exercising their rights and responsibilities and that service providers understand their obligations.  
Residential care - (1)(s) to complain and take action to resolve disputes |
### Comprehensive Grant Agreement document
- **Description of service provider responsibilities**
- **References relevant to complaint mechanisms**

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<td><a href="#">Home care - (1)(6) Comments and Complaints</a></td>
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<td>Police Certificate requirements</td>
<td>The <em>National Aboriginal and Torres Strait Islander Flexible Aged Care Programme Police Certificate Guidelines</em>, Appendix C of the NATSIFACP Guidelines apply to services under the NATSIFACP. The <em>Commonwealth Home Support Programme Police Certificate requirements</em>, Appendix E of the CHSP Programme Manual 2015 apply to services under the CHSP.</td>
<td>Service providers must ensure that staff involved in service delivery meet police certificate requirements under the relevant programme</td>
</tr>
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**Complaints Management Process for aged care services under Comprehensive Grant Agreements**

**10.8 The Scheme's complaints management process for aged care services subsidised under Comprehensive Grant Agreements**

Under the Comprehensive Grant Agreement service providers must comply with the Guidelines for the Aged Care Complaints Scheme; this specifies the Scheme processes for the management of complaints and service provider responsibilities in relation to the Scheme’s processes.

Because CHSP and NATSIFAC service providers have administrative rather than legislated requirements, some of the Scheme's complaints management process varies slightly: inclusion of a local level management phase, provision of Directions through a Notice under the Comprehensive Grant Agreement and compliance action taken under the Comprehensive Grant Agreement.

The complaints management process for complaints related to services under a Comprehensive Grant Agreement comprises of five phases (refer to Figure 6):

- Local level management
- Intake
- Detailed assessment
- Resolution
- Outcome
Figure 6. Complaint management process flow chart for complaints related to service providers under Comprehensive Grant Agreements

LOCAL LEVEL MANAGEMENT
Any person concerned about the quality of a service funded by the Commonwealth should approach the approved provider in the first instance.

INITIAL CONTACT
Through the Scheme by mail, telephone or email.
- Should determine if the complainant had gone through the service provider's complaint mechanisms - if not refer back to service provider, if appropriate.
- Initial contact officers, when referring complaints to local level management, will advise of the opportunity to use advocates.

OTHER INFORMATION

REFERRALS
OUT-OF-SCOPE
State Government funded HACC services including WA & Vic HACC services.
Service types not within scope - refer to appropriate body.
Notifications - Scheme officers records refers to grant management and programme area.
The service provider retains responsibility for providing immediate written notifications.

INTAKE PHASE
During this phase officers:
- receive, provide and classify information
- finalise routine out-of-scope information
- undertake a preliminary risk assessment to inform escalation to a manager
- support the early resolution of complaints.

EARLY RESOLUTION

DETAILED ASSESSMENT PHASE
During this phase officers:
- collect additional information to assess risk and resolve the complaint
- assess risk and plan the resolution of the complaint
- support the early resolution of complaints and consider whether there are grounds for no further action.

RESOLVED
Referred to grant management and programme areas as necessary

RESOLUTION PHASE
During this phase officers commence reviewing and applying the resolution plan developed during the assessment phase.
The Complainant:
- Approved Provider Resolution
- Conciliation
- Mediation
- Investigation

Resolution
The resolution approaches are determined following an assessment of how to achieve the most timely, proportionate and positive resolution of the complaint for the care recipient.

OUTCOME PHASE
During this phase the resolution outcome is decided, the complaint is finalised and feedback is provided to the parties of the complaint. Where appropriate and beneficial, the feedback may take the form of a post-resolution conference.

NO FURTHER ACTION (NFA)*
The Scheme decides to NFA on grounds listed in section 7 or 8 of the Complaints Principles 2014.

RESOLVED*
The approved provider and the complainant decide the issue/s in the complaint are resolved.

ADDRESSED*
The Scheme is satisfied the approved provider has addressed the issue/s in the complaint.

DIRECTIONS*
The Scheme directs the approved provider to demonstrate how it is meeting its responsibilities.

COMPLIANCE ACTION TAKEN
The Department
- has taken compliance action under the Grant Agreement.

* Review - internal review mechanism established within the Department. As the complaint is managed under a DIS Comprehensive Grant Agreement, if the complainant is not satisfied, recourse may be to the Commonwealth Ombudsman.
10.9 Complaints management principles relevant to handling complaints related to service providers under Comprehensive Grant Agreements

In responding to complaints related to service providers under Comprehensive Grant Agreements, officers should have regard to all the complaints management principles set out in Chapter 3: Complaints Management Principles.

In addition, as relevant to CHSP and NATSIFACP complaints, officers will:

- encourage complainants to engage in local level management in the first instance, as in most cases, service providers are best placed to resolve complaints and alleviate client concerns
- comply with administrative powers and authority as outlined in the Comprehensive Grant Agreement, and
- comply with information disclosure requirements relevant to administrative arrangements.

10.10 Powers of officers under the Comprehensive Grant Agreement

As complaints related to aged care programmes under a Comprehensive Grant Agreement are managed under an administrative arrangement, Part 6.4 of the Act relating to ‘authorised officers’ does not apply to the management of these complaints.

Under the Comprehensive Grant Agreement Terms and Conditions, the Commonwealth, including the Scheme, has powers to gather information, including inspecting and copying materials relating to a complaint against a service provider, contractor or subcontractor. This includes the ability to enter a contractor’s or subcontractor’s premises.

These powers of information gathering do not extend to a client’s home. Officers must be invited or receive permission to enter into a client’s home.

10.11 Sub-contractor requirements to participate in the Scheme’s complaint management process

The Comprehensive Grant Agreement states that the service provider is entirely responsible for subcontractors and for all work they perform. The service provider retains responsibility for liaison with the department and ensuring the subcontractor complies with all reasonable requests, directions and monitoring requirements requested by the department. Service providers’ agreements with subcontractors are required to include the same provisions as many clauses of the providers’ agreement with the Commonwealth (including access to premises and records and confidentiality).

10.12 Delegates and administrative authority under the Comprehensive Grant Agreement

Certain Scheme managers have the administrative authority to make decisions regarding the management of CHSP and NATSIFACP complaints. Responsibilities of managers that are assigned under the administrative authority are aligned with responsibilities of delegates under legislative authority.

Important! Officers must ensure when exercising this administrative authority that their decisions do not extend beyond the provisions of the Comprehensive Grant Agreement.
10.13 How the Scheme manages confidential and personal information during complaint handling

Information collected in the management of a complaint will include confidential and personal information about the client and service provider.

Officers must comply with Australian Privacy Principles (APPs) of the Privacy Act 1988 at all times when dealing with personal information about individuals and the Terms and Conditions of the Comprehensive Grant Agreement when dealing with confidential client or service provider information. Personal information is to be handled in accordance with the Scheme’s Privacy Statement.

**Important!** As aged care programmes under Comprehensive Grant Agreements are managed under administrative arrangements, the provisions relating to ‘protected information’ under the Act do not apply.

**Handling service provider information**

The Terms and Conditions of the Comprehensive Grant Agreement give the department powers to release confidential information relating to a service provider to various parliamentary, government, and law enforcement bodies.

Confidential service provider information can be released when managing a complaint or providing feedback about a complaint made to the Scheme.

The service provider’s confidential information may be shared with the complainant:

- for the purpose of managing and directly related to a complaint, and
- to provide feedback to a complainant about the results of the resolution process including the action taken to address the issues raised in the complaint.

It is inappropriate to offer commercially sensitive information about the service provider to the complainant or client. Personal information about the service provider’s personnel must not be released.

While the Terms and Conditions allow the Scheme to release confidential information about a service provider, this should only be done when the information is relevant to the other party and will not unduly affect the service provider’s reputation or ability to continue their service provision.

**Handling complainant or client information**

All client information, including personal information, is private and confidential and must not be released to a third party without the client’s consent.

The client’s permission must be obtained whenever their personal information is to be shared with a service provider or another party.

**Referrals**

A manager of the Scheme has administrative authority to release confidential service provider information to assist another organisation or another area within the department to perform its regulatory function in accordance with the Terms and Conditions.

In recognition that many aged care service providers deliver multiple services through other Australian Government and/or state and territory government programmes, the department will, from time to time, share information with other relevant parties to ensure clients continue to receive appropriate services.
Local level management phase

10.14 Service provider complaint handling – local level management

The Comprehensive Grant Agreement requires service providers to have an effective mechanism in place for receiving and dealing with complaints. The Scheme refers to this as local level management by the service provider.

The following key principles underpin the resolution of complaints by service providers through local level management:

• Concerns and complaints about basic maintenance, support and care services for older people delivered through the programme should be made to the service provider in the first instance.
• In most cases the service provider is best placed to resolve complaints and alleviate the client’s concerns.
• Service providers should aim to resolve complaints quickly and early using their internal complaints mechanism.
• Resolving complaints at this local level avoids unnecessary complainant frustration and preserves the relationship between the provider and the client.

Note: Local level management is independent of the Scheme.

Service provider requirements for managing complaints

Service providers’ obligations for complaints management under a Comprehensive Grant Agreement include:

• have a publically available documented complaints process in place to receive, record and resolve complaints
• actively encourage clients and their carers to provide feedback about the services they receive and assist them through the complaints management process
• encourage clients to raise a complaint directly with the service provider
• handle complaints made on behalf of the client by an advocate or representative
• refer clients to the department’s or the Scheme complaint mechanisms where the complaint has not been resolved by the service provider in the first instance
• comply with all reasonable requests, directions and monitoring requirements requested by the department, including the Scheme, and
• resolve any complaints regarding subcontractors.

Intake Phase

10.15 Activities in the intake phase

The Scheme’s intake activities outlined in Chapter 4 apply to handling complaints related to services under a Comprehensive Grant Agreement. The activities are:

• Activity 1: Receiving information
• Activity 2: Classifying information
• Activity 3: Collecting Information
• Activity 4: Providing Information
• Activity 5: Finalising out-of-scope contacts and in-scope inquiries
• Activity 6: Escalating complaints to a manager
• Activity 7: Preliminary assessment of service provider’s history
• Activity 8: Supporting early resolution of complaints
• Activity 9: Acknowledging complaints
• Activity 10: Workflow to detailed assessment phase

Contacts with the Scheme about CHSP and NATSIFACP services may include:

• inquiries and complaints from anyone about services provided by service providers
• referrals from external organisations and other areas within the department to assist the Scheme in performing its regulatory functions
• service provider notifications, which relate to service provider obligations under the Comprehensive Grant Agreement.

Where a complaint is raised with the Scheme, officers will determine if the complainant has raised their concerns with the service provider, and make an initial risk assessment of whether to ask the complainant to raise their concerns with the service provider for local level management or whether to handle it as an in-scope complaint.

The following information is additional to that provided in Chapter 4 Intake Phase and outlines specific processes relevant to CHSP and NATSIFACP complaint management during the intake phase.

10.16 What is in-scope information relevant to aged care services under a Comprehensive Grant Agreement?

Officers assess whether the information is in-scope by:

1. Determining that the information relates to the responsibilities of a service provider providing services to a person receiving:

• CHSP services and support. A list of CHSP services and support is found in the CHSP Programme Manual 2015.
• NATSIFACP services.

CHSP Comprehensive Grant Agreements may include special conditions for service delivery to a small number of people in ‘non-target groups’. For example, HACC services for people who are NOT older Australians, or HACC services for older Australian clients living in cross border areas of Victoria or Western Australia. To determine that the information relates to CHSP service delivery, officers should collect information on the service provider name and contact details, the client’s age group, and whether the client/carer identifies as an Aboriginal and/or Torres Strait Islander.

Note: Older Australians are defined as people who are 65 years or more of age or people who identify as Aboriginal and Torres Strait Islanders who are 50 years or more of age.
2. **Determining that the information relates to a responsibility of a service provider as defined in the Comprehensive Grant Agreement.**

Responsibilities of service providers include:

- the quality of services provided to care recipients/clients (as funded through the Programme)
- user rights for people to whom the care is provided (as applied through the Charter of Rights and Responsibilities for Residential care or Home care), and
- accountability for the care that is provided and the basic suitability of their personnel to deliver the funded services.

In-scope information related to service providers under a Comprehensive Grant Agreement may be classified as:

- Enquiry
- Service provider management
- Complaint
- Programme referral

### 10.17 Out-of-scope information

Out-of-scope information refers to any information that cannot be managed by the Scheme because the information does not satisfy the definition of in-scope. The following are out-of-scope for the Scheme:

- Service provider notifications about an issue that may delay, stop or adversely affect care and service delivery (including serious incidents and reportable assaults for NATSIFACP)
- HACC services solely funded by state and territory governments, including:
- HACC services funded by Victoria and Western Australia for people of all age groups. This includes where CHSP clients are in states or territories that share a border with Victoria and Western Australia and receive HACC services from Victoria and Western Australia HACC service providers.
- HACC services funded by New South Wales, Queensland, South Australia, Tasmania, Northern Territory and the Australian Capital Territory governments for people who are NOT older Australians. This includes where these service providers are funded to deliver HACC services to a small number of people who are older Australians.
- Other community services not funded through aged care programmes. For example, specialist palliative care, acute illness treatment, rehabilitative services.
- Services not covered in the client’s existing agreement with the service provider and which should be referred back to the service provider or to grants management and programme areas. For example, if a client has an agreement with the service provider which specifies the provision of 10 hours of domestic assistance each week, but the
client believe that their needs require 12 hours a week, this would be considered out-of-scope for the Scheme.

**Note:** The funder of the HACC service has administrative responsibility for the management of complaints regarding that service.

### 10.18 Service provider management - Complaints for local level management

When receiving in-scope information raising a complaint about service delivery, officers should in the first instance ask the complainant to raise their concerns with the service provider for local level management. Officers should provide assistance as required to facilitate service provider management, including providing the complainant with the service provider’s contact details, or contacting the service provider on behalf of the complainant.

Complainants should be informed that if they are not satisfied with the service provider’s response, the management of the complaint or the outcome achieved, or their issue remains unresolved, they can come back to the Scheme.

When a complainant chooses to raise their complaint with the service provider, the Scheme’s involvement with the complaint is finalised. The case should be classified as **Service provider management** and include a file note summarising the issues raised.

**Important!** The Scheme will only become involved again if the complaint is later raised with the Scheme or a manager determines that the Scheme should remain involved in the resolution of the complaint after the complaint is escalated to them.

### 10.19 In-scope complaints

The Scheme is responsible for dealing with complaints where:

- the issues relate to the quality of services provided under an existing agreement between the service provider and the client
  - This includes where CHSP Comprehensive Grant Agreements include special conditions for service delivery to a small number of people in ‘non-target groups’ and the CHSP service provider has administrative responsibility for the management of complaints regarding the service
- the complainant, even with the involvement of an advocate, is unwilling to raise the issue with the service provider for local level management in the first instance and seeks the support of the Scheme in managing the issue, or
- the Scheme assesses that the risks involved in the complaint warrant action by the Scheme in the first instance.

To assess the risks associated with a complaint, officers should consider a range of matters including issues raised in the complaint and service provider history (see Topics 4.46 to 4.38)

**Important!** If an officer is unsure whether the complaint warrants action by the Scheme in the first instance, they should notify a manager immediately.
Complaints may be open, confidential or anonymous. Complaints that are raised confidentially have limited outcomes available, and have limited feedback opportunities. A resolution approach of conciliation between the service provider and complainant is not possible if the complainant is confidential or anonymous.

Note: There can be some confusion about HACC services funded under the CHSP or by state and territory governments. Complainants can greatly assist the Scheme to determine if their complaint is in-scope by providing their HACC provider’s name and contact details when raising a complaint.

10.20 Service Provider Notifications

Service providers under a Comprehensive Grant Agreement are required to notify the department, not the Scheme, of any incidents or issues.

While the Scheme does not have responsibility for the management of notifications, the Scheme may receive service provider notifications from CHSP and NATSIFACP service providers.

**Serious incident notifications to the department**

Under the Comprehensive Grant Agreement Terms and Conditions, service providers are required to notify the department about an issue that may delay, stop or adversely affect care and service delivery. This includes serious incidents and reportable assaults for NATSIFACP.

For example:

- a serious injury to or unexpected death of a client, staff member, subcontractor or volunteer
- allegations of conduct that may result in death, harm or injury, or allegations of unlawful or criminal activity made in relation to a service provider’s organisation, staff, subcontractors or volunteers, and
- a serious emergency event or incident affecting service provision, closure or significant damage to premises or property, or which poses a significant threat to the health and safety of clients and staff.

**Reportable assault notifications for NATSIFACP services**

Service providers under the NATSIFACP are required to make reportable assault notifications under the Comprehensive Grant Agreement. If a reportable assault (as defined in Chapter 9: Service Provider Notifications) occurs as a result of, or during the delivery of, NATSIFACP services, service providers must:

- respond to the immediate needs of the individual and re-establish a safe environment
- advise senior staff members, and, as indicated,
- notify the department within 24 hours.

**Scheme’s handling of serious incident and reportable assault notifications**

Serious incident and reportable assault notifications related to CHSP and NATSIFACP services may be reported to the Scheme for triaging.
If a service provider under a Comprehensive Grant Agreement contacts the Scheme with a notification, officers should:

- record relevant information to assess client safety, and
- refer the notification to the grant management and programme areas.

The grant management and programme areas are responsible for any further action by the department in relation to these notifications.

In some circumstances the Scheme may decide to initiate an own initiative concern based on a risk assessment of the issues related to a notification. An own initiative concern can be used to assess whether a service provider is meeting its responsibilities under the Comprehensive Grant Agreement.

**Important!** If someone other than a service provider gives information about a suspected or alleged assault of a care recipient this should be classified and managed as a complaint as the service provider may not have met their responsibilities under the Comprehensive Grant Agreement.

### 10.21 Own initiative concern

Through an own initiative concern the Scheme might initiate a resolution process in relation to a complaint about aged care services under a Comprehensive Grant Agreement where the Scheme:

- identifies serious concerns about whether a service provider is meeting its responsibilities under the Comprehensive Grant Agreement and the issues are not part of a complaint resolution process, and
- receives information to assist it in performing its regulatory functions that indicates a service provider may not be meeting its obligations under the Comprehensive Grant Agreement.

### 10.22 In-scope enquiries and complaints - essential information to provide

During the initial contact with the person, officers should ensure sufficient information is provided to enable the person to understand the Scheme’s processes and make informed decisions as to how to resolve their complaint or enquiry about aged care services under a Comprehensive Grant Agreement.

Officers should provide information about:

- the Complaints and Compliance administrative regulatory framework
- the complainant’s ability to raise the matter with the Scheme should they be unsatisfied with the service provider’s management of their concerns or with the service provider’s response
- the client’s rights and responsibilities under the Charter of Rights and Responsibilities for Residential care or Home care particularly in relation to complaints, and/or
- that complainants have the right to call on an advocate of their choice to present any complaints they may have and to assist them through the complaints resolution process.
Important! When collecting information the complainant should be advised of the possible uses and the circumstances in which their information or the client’s confidential information may be used and disclosed by the Scheme.

10.23 Finalising out-of-scope and in-scope enquiries

The grant management and programme areas must be notified of matters the Scheme finalises as enquiries so they are able to address them.

10.24 Escalating complaints to a manager and preliminary assessment of service provider history

Officers will use the intake escalation matrix (IEM) to determine timeframes to escalate complaints to a manager. Where a complaint presents a major risk it will usually warrant involvement by the Scheme rather than referral to the service provider for local management; officers should immediately notify a manager about these types of complaints.

The service provider’s complaints and contract performance (against the Comprehensive Grant Agreement or previous agreements) history should be examined when determining the risk posed by a complaint.

If a complainant chooses to raise their complaint with the service provider for local level management, but a manager determines that the Scheme should also manage this complaint, the complainant and service provider should be formally advised of this decision as soon as practicable.

10.25 Acknowledging receipt of the complaint

When a complainant chooses to raise their complaint with the service provider for local level management, officers do not need to send an acknowledgement letter to complainants, nor the service provider.

10.26 Workflow to the detailed assessment phase

If a complainant returns to the Scheme because their complaint has not been resolved by the service provider and/or the Scheme has not been able to achieve an early resolution, officers will workflow the complaint to the detailed assessment phase.

Detailed Assessment Phase

10.27 Activities in the detailed assessment phase

The Scheme’s detailed assessment activities outlined in Chapter 5 apply to handling complaints related to services under a Comprehensive Grant Agreement. The activities are:

• Activity 1: Collecting and assessing relevant information
• Activity 2: Risk assessment and resolution planning
• Activity 3: Supporting early resolution
• Activity 4: Taking no further action
• Activity 5: Referrals to other areas or organisations
• Activity 6: Correspondence about the progress of the complaint
• Activity 7: Workflow to the resolution phase.
Early resolution of complaints is the preferred approach. Complaints may be finalised in this phase if deemed appropriate for early resolution or if the Scheme believes there are grounds to take no further action.

The following information is additional to that provided in Chapter 5 Detailed Assessment Phase and outlines specific processes relevant to CHSP and NATSIFACP complaint management during the detailed assessment phase.

10.28 Collecting and assessing relevant information

During detailed assessment the service provider’s complaints history and a service provider profile should be researched using the department's and the Scheme's official information management systems. Information about the service provider’s contract performance (against the Comprehensive Grant Agreement or previous agreements) and quality reporting history may also be obtained from the grants management and programme areas or Quality Agency.

**Note:** Officer should confirm that a CHSP complaint relates to CHSP-funded HACC services.

10.29 Risk assessment and resolution planning

When the Scheme attempts early resolution in the detailed assessment phase, officers will apply Chapter 5 considerations to completion of a RARP.

10.30 Taking no further action

The Scheme may decide to take no further action in relation to an issue under the same circumstances contained in Chapter 5, but in context of a client.

10.31 Referrals to other areas or organisations

An officer with administrative authority may authorise the disclosure of information to assist another organisation or another area within the department to perform its regulatory function. Refer to Topic 0
Referrals to other areas or organisations and Topic 10.44 Referrals to the grant management and programme areas.

10.32 Correspondence about the progress of the complaint

Feedback on early resolution or no further action
When the Scheme finalises a complaint through early resolution or decides to take no further action on an issue, officers will apply Chapter 5 considerations to provision of written correspondence to the complainant, including:

• when to provide the correspondence, and
• the information to provide in the correspondence.

Resolution Phase

10.33 Resolution approaches and activities in the Resolution Phase

The Scheme’s resolution approaches and activities outlined in Chapter 6 apply to handling complaints related to services under a Comprehensive Grant Agreement.

The resolution approaches available include:

• Service Provider Resolution
• Conciliation
• Investigation, and
• Mediation.

The activities are:

• Activity 1: Determining the resolution approach
• Activity 2: Contacting the complaint parties
• Activity 3: Planning the resolution approach
• Activity 4: Collecting information
• Activity 5: Undertaking a site visit or onsite meeting
• Activity 6: Assessing collected information
• Activity 7: Referrals to other areas or organisations
• Activity 8: Documenting the resolution process.

Complaints may progress to this phase if the issues have not been resolved through local level management or early resolution or if the Scheme believes further action is required. The Scheme may also undertake a resolution process as an own initiative concern if the Scheme receives information that raises an issue about a service provider’s obligations in relation to the Comprehensive Grant Agreement. The Scheme will utilise the most appropriate resolution approach.

The following information is additional to that provided in Chapter 6 Resolution Phase and outlines specific processes relevant to CHSP and NATSIFACP complaint management during the resolution phase.

10.34 Service provider resolution
Service provider resolution, as opposed to local level management, is a Scheme resolution process. The Scheme may request the service provider to examine and attempt to resolve the complaint issues and to report back to the Scheme. It may not be appropriate to disclose confidential service provider information contained in the resolution report to the complainant.

10.35 Conciliation

Officers cannot allow the parties to agree to something that is contrary to a service provider’s responsibilities under the Comprehensive Grant Agreement including the Charter of Rights and Responsibilities for Residential Care or Home Care.

10.36 Mediation

CHSP and NATSIFACP service providers and complainants may choose to engage a mediator at their own cost.

10.37 Investigation

The Scheme may require access to premises and records and to talk to parties during a resolution process. The Terms and Conditions of the Comprehensive Grant Agreement permit Commonwealth officers to:

- access a service provider’s premises
- inspect and copy materials in the service providers or their personnel’s possession, including the service's complaints register
- communicate with the service provider’s personnel, and
- access any assets of the service provider.

Under the Terms and Conditions, service providers are to provide all reasonable assistance to the officer.

10.38 Undertaking a site visit at the service provider’s office or service

Officers will follow the site visit processes outlined in Chapter 6 when conducting a site visit of a CHSP or NATSIFACP service provider’s office or service.

In commencing a site visit the only differences are that officers must:

- ask to speak to someone who is ‘specified personnel’ of the service provider rather than ‘key personnel’
- advise the representative of the service provider that consent for access to the premises can be withdrawn at any time, and
- explain that under the Comprehensive Grant Agreement the officer may ask the service provider’s employees at the premises to answer questions or produce documents or records.

Mandatory reporting requirements related to suspected cases of child abuse

It is possible that when dealing with a complaint related to CHSP or NATSIFACP, care services may be provided in an environment where there are also younger HACC or disability service clients. Each state and territory legally requires persons of certain professions or occupations to report suspected cases of child abuse or neglect to child
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Protection agencies. Commonwealth nurses, social workers, teachers and child care workers are examples of these professions.

If suspicions of child abuse or neglect come to the attention of officers that have mandatory reporting requirements, officers should refer to the relevant child protection agency website in each jurisdiction to determine what action to take.

10.39 Undertaking a site visit at a private home

Officers will follow the site visit to a private home processes outlined in Chapter 6. An officer must be invited to enter a client’s home and has no right to insist upon access.

10.40 Notice of intention to issue directions and directions

When the Scheme has reasonable grounds to conclude that a service provider is not meeting its obligations under the Comprehensive Grant Agreement, directions may be issued. As with complaints managed under the Act, the Scheme will consider whether to issue a notice of intention to issue directions (NIID) to the service provider to allow them to address points of concern before deciding whether to issue directions.

Differences to the process for issuing a NIID include:

- The notice of intention to issue directions report (NIIDR) must be approved by an officer with administrative authority before a NIID can be sent to the service provider.
- In cases where there appears to be significant and immediate risk to a client’s health and wellbeing, an officer with administrative authority must make the decision to send directions without first sending a NIID.

Outcome Phase

10.41 Circumstances for ending the resolution process

The Scheme may decide to end a resolution process for complaint issues related to services under a Comprehensive Grant Agreement under the same circumstances contained in Chapter 7, but in the context of a client and service provider.

The decision to end a resolution process must be made by an officer with the appropriate administrative authority. This person is usually a manager.

10.42 Decision to end as the Scheme has issued directions

When the Scheme has reasonable grounds to conclude that a service provider is not meeting its obligations under the Comprehensive Grant Agreement, directions may be issued. As with complaints managed under the Act, the Scheme will consider whether:

- Not to issue a direction if the service provider’s response to the NIID shows that the Scheme’s concerns have been resolved, or will be resolved to the satisfaction of the Scheme in a reasonable timeframe.
- To issue directions, without first sending a NIID, if prompt action is required by the service provider in order to protect the health, safety or wellbeing of the client.
- The service provider’s actions taken in response to the directions ensure it will meet its responsibilities.
The directions will be issued through a Notice under the Terms and Conditions of the Comprehensive Grant Agreement. The service provider is obliged to comply with the Scheme’s directions.

Failure to comply with directions issued through a Notice is considered an Event of Default under the Comprehensive Grant Agreement. In these circumstances:

- officers will refer the case to the grant management area and cease all involvement in a case, and
- the grant management area may take action against the service provider under the agreement. The possible actions taken may include one or more of the following:
  - Suspension of all or any part of the funding.
  - Reducing the scope of the funding agreement.
  - Termination of the funding agreement.
10.43 Referrals to other areas or organisations

Referrals can be made at any time throughout the complaints management process. If sufficient information is obtained that may assist another area within the department or organisation perform its regulatory function, a delegate may authorise the release of the information in accordance with the Comprehensive Grant Agreement.

Referrals of information or complaint issues can be made to a range of areas or organisations including:

External referrals
- the Quality Agency
- state and territory government
- the police
- the Coroner
- the Australian Health Practitioner Regulation Agency
- health care complaints bodies.

Internal referrals
- the grant management and aged care programme areas within the department
- the audit and fraud area of the department.

Important! Managers must ensure that, where appropriate and possible, reasonable action is taken to advise complainants/nominated representatives that their personal information may be released to another organisation. The complainant should also be advised of the possible uses and the circumstances in which the information may be used and disclosed by the Scheme.

Note: A referral does not prevent the Scheme from continuing with a resolution process.

10.44 Referrals to the grant management and programme areas

Referrals to the grant management and programme areas ensure a consistent and coordinated response by the department to issues that are raised. Issues to be referred to the programme area are:

- **Notifications of incidents and issues** - If notifications are provided to the Scheme during the intake phase, officers will refer them to the programme area for management.

- **Complaints about resourcing and access and availability to services** - Where complaints involve quality, resourcing or access issues, officers should liaise with the programme area to determine responsibilities for managing the issues.

- **Significant risks to a client, aged care service or programme** - where the Scheme identifies that there may be a significant risk, officers should liaise with the programme area to determine responsibilities for managing the issues.

- **Failure to comply with directions/Event of Default by the service provider** – officers will refer the case to the Grant Management area for action and the Scheme will cease all involvement.
10.45 Referrals to the Quality Agency

The Quality Agency ensures there are systems and processes in place that provide quality care delivery to individuals receiving aged care services under CHSP or NATSIFACP.

Complaints involving a significant risk (as assessed by the RARP) due to a service provider not meeting its obligations under the Home Care Standards or the Quality Framework Standards will be referred to the Quality Agency. Officers must use the referral template in the Scheme’s official information management system.

Note: A referral to the Quality Agency does not mean that the Scheme should end the complaints resolution process.

10.46 Referrals to state/territory government and other aged care programme areas

In recognition that many aged care service providers deliver multiple services through other Australian Government and/or state and territory government programmes, the department will, from time to time, share information with other relevant parties to ensure clients continue to receive appropriate services.

Note: Officers should obtain advice from their local manager about the arrangements for HACC complaint referrals and information sharing within their state or territory.

10.47 Feedback on the decision to end and review rights

The Terms and Conditions allow confidential information to be provided to a complainant about the outcome of the resolution process, including the action taken to address the issues raised.

When disclosing confidential information to complainants, officers will consider:

• the sensitivity of the confidential information
• the information that the service provider has already shared with the complainant during the resolution process, and
• any request by the service provider that specific information be kept confidential.

Officers will consider whether there is any reason not to advise the service provider or the complainant of a referral; including where advising either of the parties could hinder the processes of the organisation being referred to, such as a police investigation.

10.48 Review mechanisms available for parties to a complaint related to services provided under a Comprehensive Grant Agreement

Parties to a complaint related to service provided under a Comprehensive Grant Agreement also have a right of review, however not all the review mechanisms outlined in Chapter 8 Complaint Review Mechanisms are available.

There are three potential review mechanisms available to parties to a complaint related to services provided under a Comprehensive Grant Agreement:

• Following resolution of a complaint, complainants and service providers can seek reconsideration by the Scheme about the Scheme’s decision to end the resolution
process. Noting that if a service provider seeks a review of a direction by the Scheme, the provider must take the specified action required under the direction while awaiting that review.

- Any person involved in a complaint can choose to raise a concern about the Scheme’s handling of the complaint or an officer’s conduct with the department.
- Any person involved in the complaint can seek external reconsideration by the Commonwealth Ombudsman if dissatisfied with the Scheme’s processes or procedures.

There is no right of review to the Aged Care Commissioner for CHSP and NATSIFACP complaints. As the Commissioner’s powers are prescribed under the Act and Complaints Principles 2014, the Commissioner has no jurisdiction to review or make recommendations regarding matters associated with Comprehensive Grant Agreements. There is also no recourse for review by the Administrative Appeals Tribunal or under the Administrative Decisions (Judicial Review) Act 1997.

The processes outlined in Chapter 8 apply to the review of complaints related to services under a Comprehensive Grant Agreement.