**EXPLANATORY STATEMENT**

**Issued by the authority of the Assistant Minister for Social Services**

***Aged Care Act 1997***

***Quality Agency Principles 2013***

The *Australian Aged Care Quality Agency Act 2013* (the Act) establishes a new Australian Aged Care Quality Agency (the Quality Agency) to replace the existing Aged Care Standards and Accreditation Agency from 1 January 2014. The new body will be the sole agency that providers of aged care, approved under the *Aged Care Act 1997*, will deal with in relation to the quality assurance of the aged care services that they deliver, whether those services are delivered through a residential aged care service or in the person’s own home.

The Quality Agency will commence functions relating to residential aged care services from 1 January 2014, and will commence functions relating to home care services from 1 July 2014.

Subsection 53(1) of the Act allows the Minister to make, by legislative instrument, Quality Agency Principles providing for matters required or permitted by the Act or necessary or convenient to carry out or give effect to the Act.

Subsection 53(2) provides that the Quality Agency Principles must not be inconsistent with the *Aged Care Act 1997* or the Principles made under that Act.

The Quality Agency Principles (the Principles) describe:

* the process of accreditation for residential aged care services. This includes, for example, how approved providers may make applications for accreditation, the assessment and decision-making process to be employed by the Quality Agency, and opportunities for reconsideration and review. As there are no major policy changes to the accreditation process, these provisions are based on those described in the Accreditation Grant Principles 2011 (made under the *Aged Care Act 1997*). These Principles will be revoked from 1 January 2014 and replaced by the new Quality Agency Principles;
* the quality review process for home care services that will commence from 1 July 2014; and
* other matters such as dealing with non-compliance by approved providers and the protection of information.

The Quality Agency Principles operate in conjunction with the Quality Agency Reporting Principles (made under the *Aged Care Act 1997*) that describe the Quality Agency’s responsibilities in relation to reporting to the Secretary of the Department of Social Services (responsible for administering the *Aged Care Act 1997*) about matters relating to accreditation, quality review and non-compliance by approved providers.

The Principles are a legislative instrument for the purposes of the *Legislative Instruments Act 2003.*

Consultation

The Quality Agency Principles support the establishment of the new Quality Agency under the *Australian Aged Care Quality Agency Act 2013*.

The establishment of the Quality Agency was subject to extensive consultation with the aged care sector, consumers and industry and professional bodies during late 2012 and early 2013. This included consultation on the new legislation via an overview paper, a video presentation detailing the changes, briefing sessions in Melbourne, Sydney and Canberra, and a call for public comment.

In addition, consultation was undertaken on an exposure draft of the Quality Agency Principles (and related Quality Agency Reporting Principles) in October 2013. The Department of Social Services received fourteen submissions from interested stakeholders. These submissions informed the finalisation of the Quality Agency Principles and the Quality Agency Reporting Principles.

Regulation Impact Statement

The Office of Best Practice Regulation has advised that no Regulation Impact Statement is required (OBPR ID 14686).

Commencement

The Principles commence on 1 January 2014.

**ATTACHMENT**

***Details of the Quality Agency Principles 2013***

**Chapter 1 – Preliminary**

**Section 1.1 - Name of principles**

This sectionstates that the name of the Principles is the *Quality Agency Principles 2013* (the Principles).

**Section 1.2 - Commencement**

This sectionstates that the Principles commence on 1 January 2014.

**Section 1.3 -** **Authority**

This sectionprovides that the authority for making thePrinciples is section 53 of the *Australian Aged Care Quality Agency Act 2013* (the Act).

**Section 1.4 -** **Definitions**

This section provides definitions for various terms used in these Principles, and also notes that a number of definitions are included in the Act.

**Section 1.5 -** **Meaning of *commencing service***

The purpose of this section is to define ‘commencing services’. The Principles distinguish between ‘commencing services’ and ‘accredited services’ because the process for accreditation differs depending on whether the service is a new or existing service. In summary, commencing services are those that:

* have been allocated places under the *Aged Care Act 1997*;
* have not previously provided residential aged care for the places at the service; and
* are not accredited or have not been previously accredited by either the CEO of the Quality Agency or the previous Aged Care Standards and Accreditation Agency.

**Chapter 2 –Residential care services**

**Part 1 - Accreditation of residential care services**

**Division 1 – Applications for accreditation or re-accreditation**

**Section 2.1 - Purpose of this Division**

This section describes the purpose of Division 1. This Division sets out how an application is made for: accreditation of a commencing service; re-accreditation of an accredited service; or re-accreditation of a previously accredited service.

**Section 2.2 - Application for accreditation or re‑accreditation**

This section provides that an approved provider may apply to the CEO of the Quality Agency for accreditation of a commencing service or re-accreditation of an accredited or previously accredited service.

**Section 2.3 - Requirements for application for accreditation or re accreditation**

This sectionsets out the requirements for valid applications for accreditation or re-accreditation. In summary, an application must:

* be made in writing;
* be in the form approved by the CEO of the Quality Agency;
* include an undertaking by the approved provider to undertake continuous improvement in relation to the relevant service, measured against the Accreditation Standards, if the service is accredited or re-accredited; and
* be accompanied by the applicable application fee under section 2.5.

The application may also be accompanied by self-assessment information however this is not mandatory. ‘Self-assessment information’ is written information that demonstrates the approved provider’s performance against the Accreditation Standards. This information may be given to the CEO of the Quality Agency either as part of the application or prior to, or during, a site audit.

**Section 2.4 - Acceptance of application**

This sectionprovides that the CEO of the Quality Agency must not accept an application unless it is a valid application. As noted in relation to section 2.3, a valid application is one that is in writing, is in the correct form, includes an undertaking from the approved provider about continuous improvement against the Accreditation Standards and is accompanied by the application fee as outlined in section 2.5.

**Section 2.5 - Application fees**

This sectionsets out the fees payable for an application for accreditation of various services. The amount of the fee is determined by the number of places allocated to the service and whether or not the service is a commencing service or an accredited or previously accredited service.

**Division 2 – Assessment and decision: accreditation of commencing services**

**Section 2.6 - Purpose of this Division**

The purpose of Division 2 is to describe how a decision is made on an application for the accreditation of a commencing service.

**Section 2.7 - CEO must make decision on application**

This sectionsets out what the CEO of the Quality Agency must do once an application in relation to a commencing service has been received.

In summary, within 16 days of receiving the application (or such longer time as is agreed between the Quality Agency and the approved provider), the CEO of the Quality Agency must decide whether or not to accredit the commencing service.

In making the decision, the CEO of the Quality Agency must take into account the application, any relevant information provided by the Secretary of the Department of Social Services (the Secretary), and whether the approved provider will undertake continuous improvement, measured against the Accreditation Standards, if the service is accredited.

The CEO of the Quality Agency may also take into account any other relevant matters.

The CEO of the Quality Agency must record the decision including the reasons for the decision.

The Quality Agency Reporting Principles also require the CEO of the Quality Agency to communicate his or her decision to the Secretary.

**Section 2.8 - Decision to accredit commencing service**

This section provides that if the CEO of the Quality Agency decides to accredit the commencing service, the period of accreditation will be 1 year.

The CEO of the Quality Agency must also decide whether there are any areas in which improvements must be made by the approved provider in order to meet the Accreditation Standards and the arrangements for assessment contacts. Assessment contacts are defined in section 1.4 of the Principles. An assessment contact is any form of contact (other than a site or review audit) between the CEO of the Quality Agency (or a quality assessor) and an approved provider for the purposes of: assessment of performance against the Standards; assistance with continuous improvement; identifying whether a review audit is required; or giving the approved provider information or education about the accreditation process and requirements.

The CEO of the Quality Agency must record the decision regarding accreditation, any areas for improvement and the arrangements for assessment contacts.

**Division 3 – Assessment and decision: re-accreditation of accredited and previously accredited services**

**Subdivision A – Preliminary**

**Section** **2.9 -** **Purpose of this Division**

The purpose of this Division is to set out how a decision is made on applications for re-accreditation of an accredited or previously accredited service.

**Subdivision B – Site Audit**

**Section 2.10 - Action after receiving application**

This section sets out what must be done by the CEO of the Quality Agency on receipt of a valid application for re-accreditation of an accredited service or a previously accredited service.

The section requires that as soon as practicable after receiving the application, the CEO of the Quality Agency must create an assessment team to undertake the site audit of the relevant service. The CEO of the Quality Agency is also required to consult with the approved provider about when the team will undertake the site audit.

**Section 2.11 - Notification of site audit**

This section provides that within 28 days after receiving the application, the CEO of the Quality Agency must notify the approved provider of the date/s for the site audit and the full names of each member of the assessment team.

To facilitate increased consumer involvement in the accreditation process, the CEO of the Quality Agency must also give the approved provider:

* a form of words to be used to notify care recipients of the site audit; and
* a poster that must be displayed by the approved provider in a prominent place or places within the service. The purpose of the poster will be to inform care recipients about the site audit and the fact that they may provide information to the accreditation team as part of the site audit.

**Section 2.12 - Approved provider must inform care recipients about site audit**

This section describes what the approved provider must tell care recipients about the site audit. After being told by the CEO of the Quality Agency when the site audit will start, the approved provider must, at least 21 days before the start of the site audit, take all reasonable steps to ensure that care recipients (or their representatives) are aware that a site audit of the service will be carried out, the date that it is proposed to start and finish, and that they will also have an opportunity to talk to members of the assessment team.

In order to ensure that care recipients and their representatives are aware of the site visit, the approved provider must, as a minimum, provide written information about the site audit to each care recipient or their representative, including any specific wording provided by the CEO of the Quality Agency. The approved provider must also display copies of the poster provided by the CEO of the Quality Agency in a prominent place or places within the residential care service.

If the applicant is provided with less than 21 days’ notice of the site audit, the approved provider must take the steps mentioned above as soon as possible after being told of the date.

**Section 2.13 - Self‑assessment information**

This section outlines the requirements for the provision of self-assessment information. The section provides that the approved provider must, prior to or during the site audit, give the assessment team written information that demonstrates its performance, in relation to the accredited or previously accredited service, against the Accreditation Standards (self-assessment information).

**Section 2.14 - Conducting the site audit**

This section provides that the assessment team must undertake a site audit at the premises of the accredited or previously accredited service in accordance with any directions given to the assessment team by the CEO of the Quality Agency.

In carrying out the site audit, the assessment team must:

* act consistently with any provisions of the Accountability Principles (made under the *Aged Care Act 1997*) applying to the audit;
* assess the quality of care and services provided at the service against the Accreditation Standards;
* consider any relevant information about the quality of care and services at the service, given by a care recipient or former care recipient (or by their representatives);
* consider any relevant information received from the Secretary about the approved provider; and
* consider any relevant information received from the approved provider, including its self-assessment information.

**Section 2.15 - Site audit meetings**

This section sets out the requirements for site audit meetings. These requirements include that:

* the assessment team must meet with the approved provider daily during the site audit to discuss the progress of the audit; and
* the assessment team must meet at least 10% of the care recipients of the service (or their representatives) to discuss the care and services they are receiving.

If a care recipient (or their representative) asks to meet the assessment team during the site audit, the approved provider must allow the team to meet the person privately.

**Section 2.16 - Report of major findings**

This section sets out the requirements for the report of major findings. The section provides that the assessment team must, on the last day of the site audit, give the approved provider a written report detailing the major findings of the site audit.

The approved provider may, within 14 days after receiving the report, give the CEO of the Quality Agency a written response to the report.

**Section 2.17 - Site audit report**

This section provides that the assessment team must give the CEO of the Quality Agency a copy of the report on major findings and the site audit report, within 14 days of the last day of the site audit.

This site audit report must include an assessment of the approved provider’s performance against the Accreditation Standards and may also include any other matters the assessment team considers relevant.

**Subdivision C – Decision on application for re-accreditation**

**Section 2.18 - CEO must make decision on application**

This sectionrequires the CEO of the Quality Agency to decide, within 28 days of receiving the site audit report (or such later time as is agreed between CEO of the Quality Agency and the approved provider), whether or not to re-accredit the service.

In making the decision, the CEO of the Quality Agency must take into account:

* the site audit report;
* any information received from the approved provider in response to the report of major findings given to the approved provider (see section 2.16);
* any relevant information received from a care recipient or former care recipient of the accredited service, or representative of a care recipient or former care recipient;
* any relevant information about the approved provider given by the Secretary; and
* whether the CEO is satisfied that the approved provider will undertake continuous improvement, measured against the Accreditation Standards, if the service is re-accredited.

The CEO of the Quality Agency may also take into account any other relevant matter.

The CEO of the Quality Agency must record the decision about the application and the reasons behind the decision.

The Quality Agency Reporting Principles also require the CEO of the Quality Agency to communicate his or her decision to the Secretary.

**Section 2.19 - Decision to re‑accredit relevant service**

This section provides that if the CEO of the Quality Agency decides to re-accredit the service, the CEO must also decide:

* the further period for which the service is to be accredited;
* whether there are any areas in which improvements must be made to meet the Accreditation Standards; and
* the arrangements for assessment contacts.

The CEO of the Quality Agency must record the decision including each of the matters detailed above.

**Section 2.20 - Decision not to re‑accredit relevant service**

This section provides that if the CEO of the Quality Agency decides not to re-accredit the relevant service, the CEO must decide:

* whether there are any areas in which improvements to the service would be necessary to meet the Accreditation Standards; and
* the arrangements for assessment contacts if the decision relates to an accredited service.

The CEO of the Quality Agency must record the decision not to re-accredit including the matters detailed above. Division 4 deals with notification of this decision to the approved provider.

**Section 2.21 -** **Decision to revoke accreditation of accredited service**

If the CEO of the Quality Agency decides not to re-accredit an accredited service, the CEO may also revoke the service’s existing accreditation.

If the CEO of the Quality Agency decides to revoke the existing accreditation, the CEO must also decide the date on which the revocation takes effect. The CEO of the Quality Agency must record the decision and notify the approved provider of the decision in accordance with section 2.25.

The Quality Agency Reporting Principles also require the CEO of the Quality Agency to communicate his or her decision to the Secretary.

**Division 4 – Notification of decision on application for accreditation or re-accreditation**

**Section 2.22 - Purpose of this Division**

The purpose of Division 4 is to describe how the CEO of the Quality Agency must notify the approved provider of decisions on applications for accreditation or re-accreditation.

**Section 2.23 - Notification of decision to accredit or re‑accredit service**

This sectionoutlines the process for notification of decisions to either accredit a commencing service or re-accredit an accredited or previously accredited service.

Within 14 days of deciding to accredit a service, the CEO of the Quality Agency must tell the approved provider, in writing, about:

* the decision;
* the reasons for the decision;
* the period of accreditation;
* for a decision to re-accredit a service – how the approved provider may apply for reconsideration of the further period of accreditation;
* any areas in which improvements must be made in order to meet the Accreditation Standards (and the timetable for making the improvements);
* the arrangements for assessment contacts (that is, contacts between the CEO of the Quality Agency (or quality assessors) and the approved provider, other than site or review audits);
* the circumstances in which a review audit may be undertaken; and
* how the approved provider may apply for re-accreditation of the service.

The CEO of the Quality Agency must also give the approved provider a certificate of accreditation stating the period of accreditation or further period of accreditation. No time period is stipulated for the provision of this certificate. This is because the certificate is generally issued once the time period for requesting reconsideration of the decision has expired. This removes the need to issue two certificates, should a decision change on re-consideration.

If a site audit was conducted, the CEO of the Quality Agency must also give the approved provider a copy of the site audit report. The site audit report will not contain any confidential information that is unable to be disclosed to the approved provider because of the operation of confidentiality provisions under Chapter 4.

**Section 2.24 - Notification of decision not to accredit or not to re‑accredit service**

This section describes the requirements for notification of decisions not to accredit or not to re-accredit a service.

This section states that within 14 days of deciding not to accredit or not to re-accredit a service, the CEO of the Quality Agency must tell the approved provider for the service, in writing, about the decision, the reasons for the decision, any areas in which improvements to the service would be necessary to meet the Accreditation Standards and how the approved provider may apply for reconsideration of the decision.

If the service is an accredited service (that is, the service is not a commencing service), the CEO must also tell the approved provider the arrangements for assessment contacts.

Within the same time period (14 days), the CEO must also give the approved provider a copy of any information received from the Secretary that influenced the CEO’s decision on the application and, if a site audit was conducted, a copy of the site audit report.

The CEO must also notify the Secretary of the decision in accordance with the Quality Agency Reporting Principles.

**Section 2.25 - Notification of decision to revoke accreditation of accredited service**

This sectiondescribes the requirements for the notification of a decision to revoke existing accreditation.

This provision states that within 14 days of making the decision to revoke existing accreditation, the CEO must tell the approved provider for the service, in writing, about:

* the decision;
* the reasons for the decision;
* the date the revocation takes effect;
* any areas in which improvements to the service would be necessary to meet the Accreditation Standards in relation to the service;
* the arrangements for assessment contacts; and
* how the approved provider may apply for reconsideration of the decision.

The CEO must also advise the Secretary of the decision in accordance with the Quality Agency Reporting Principles.

**Division 5 – Publication of decisions**

**Section 2.26 - CEO must publish accreditation decisions**

This section provides for the publication of decisions made by the CEO of the Quality Agency, including decisions to:

* accredit or not to accredit a commencing service;
* re-accredit or not to re-accredit an accredited or previously accredited service; and
* to revoke the accreditation of an accredited service.

If no request for reconsideration is made, the CEO of the Quality Agency must, as soon as practicable after the decision is made, publish the decision and any site audit report considered in the making of the decision. However, the CEO of the Quality Agency must not publish, or otherwise make available, protected information unless the publication is authorised under Part 7 of the Act.

**Part 2 – Monitoring of accredited services**

**Division 1 – Preliminary**

**Section 2.27 - Purpose of this Part**

This sectiondescribes the purpose of Part 2. This Part sets out the responsibilities, in relation to an accredited residential care service, of both the CEO of the Quality Agency and the approved provider of the service.

**Division 2 - Continuous improvement**

**Section 2.28 - Approved provider must have plan for continuous improvement**

This section requires an approved provider for an accredited service to have a plan for continuous improvement of the service.

A ‘plan for continuous improvement’ is a written plan that explains how the approved provider will meet its obligations for continuous improvement under the Accreditation Standards and in relation to any areas identified by the CEO of the Quality Agency as areas in which improvements are needed to meet the Standards.

**Section 2.29 - Approved provider must make plan available to CEO and assessment teams**

The section requires that if the CEO of the Quality Agency requests a copy of the plan for continuous improvement, the approved provider must give a copy of the plan to the CEO. Similarly, if an assessment team, conducting a site audit or review audit, requests a copy of the plan, the approved provider must give a copy of the plan to the assessment team.

**Division 3 – Assessment contacts**

**Section 2.30 - Meaning of *assessment contact* for an accredited service**

This section provides that an ‘assessment contact’ is any form of contact (other than a site audit or review audit) between the CEO or a quality assessor and the approved provider of a service for the purposes of:

* assessing the approved provider’s performance against the Accreditation Standards;
* assisting the approved provider’s process of continuous improvement;
* identifying whether there is a need for a review audit; or
* giving the approved provider additional information or education about the accreditation process and requirements.

The form that the assessment contact takes is up to the CEO of the Quality Agency or the quality assessor. This may include phone discussions, emails or site visits. Given the wide variety of possible assessment contacts, the CEO of the Quality Agency is not required to give notice to the approved provider before an assessment contact takes place.

**Section 2.31 -** **CEO may vary arrangements for assessment contacts**

This section describes the way in which the CEO of the Quality Agency may vary previously advised arrangements for assessment contacts.

The CEO of the Quality Agency may vary the arrangements for assessment contacts with an approved provider by notifying the approved provider, in writing, about any new arrangements for assessment contacts.

**Section 2.32 -** **Informing care recipients of assessment contact in the form of visit to service**

This section provides that if an assessment contact is in the form of a visit to the service, the CEO of the Quality Agency must give the approved provider a poster to inform the care recipients of the service about the assessment contact. The approved provider must display the poster, as soon as is practicable, in one or more prominent places within the service.

If the CEO of the Quality Agency gives the approved provider advance notice of the visit to the service then the poster can be displayed in advance of the visit.

**Section 2.33 -** **Additional assessment contacts**

This section provides that, in addition to assessment contacts notified to the approved provider of an accredited service, additional assessment contacts may be made without notice to the approved provider.

**Section 2.34 -** **Action following assessment contact**

Within 21 days after an assessment contact with an approved provider, the CEO of the Quality Agency must tell the approved provider, in writing, about the arrangements for future assessment contacts and any areas in which improvements must be made to meet the Accreditation Standards (including the timetable for making improvements).

**Division 4 – Review audit**

**Section 2.35 -** **When a review audit is to be conducted**

This section describes when the CEO of the Quality Agency may arrange for a review audit of a service to be conducted.

The CEO of the Quality Agency may arrange for a review audit of an accredited service if:

* the CEO believes, on reasonable grounds, that the approved provider may not be meeting the Accreditation Standards or other responsibilities under the *Aged Care Act 1997*;
* there has been a change that the approved provider must tell the Secretary about under section 9-1 of the *Aged Care Act 1997*. Section 9-1 of that Act requires the approved provider to tell the Secretary about a change in circumstances that affects the approved provider’s suitability to provide aged care, and about a change to the approved provider’s key personnel;
* under section 16‑1 of the *Aged Care Act 1997*, there has been a transfer of allocated places;
* the premises at which the service is conducted have changed since the service was accredited;
* the approved provider of the service has not complied with the arrangements made for assessment contacts; or
* the approved provider has requested reconsideration of certain decisions.

The CEO of the Quality Agency must also arrange for a review audit at the Secretary’s request.

**Section 2.36 -** **Appointment of assessment team**

This section provides for the creation of an assessment team to conduct a review audit. If the CEO of the Quality Agency decides to arrange a review audit (or is required to arrange such an audit) the CEO must create an assessment team to undertake the review audit.

**Section 2.37 -** **Informing care recipients of review audit**

This section specifies the requirements for approved providers to inform care recipients about review audits. Consistent with similar provisions relating to assessment contacts and site audits, this section requires the CEO of the Quality Agency or the assessment team to give the approved provider a poster to inform the care recipients of the review audit. Approved providers must display this poster as soon as practicable, in a prominent place or places within the service.

This means that if the CEO of the Quality Agency gives the approved provider advance notice of the review audit, the poster must be displayed in advance of the review audit. But if the review audit is unannounced, the CEO of the Quality Agency would provide a copy of the poster at the time of the review audit and this must be displayed in the service on commencement of the review audit.

**Section 2.38 - Conducting the review audit**

This section provides that the assessment team must undertake a review audit of the accredited service at the premises of the service and in accordance with any directions given to the assessment team by the CEO of the Quality Agency.

In carrying out the review audit, the assessment team must:

* act consistently with any provisions of the Accountability Principles applying to the audit;
* assess the quality of care and services provided at the service against the Accreditation Standards;
* consider any information about the quality of care and services at the service, given by a care recipient or former care recipient or by their representative;
* consider any relevant information received from the Secretary about the approved provider; and
* consider any information received from the approved provider.

In accordance with section 4.1, the assessment team must not disclose information to the approved provider that would identify any person who has provided information to the assessment team about the care and services provided by the approved provider.

**Section 2.39 - Review audit meetings**

This section provides that the assessment team must meet with the provider daily to keep them informed of the review audit progress. They must also meet with a minimum of 10% of the care recipients of the service or the care recipient’s representatives.

This section also makes clear that if a care recipient or a care recipient’s representative asks to meet with the assessment team, the approved provider is to allow that meeting to occur in private.

**Section 2.40 - Report of major findings**

This section outlines the requirements for the report of major findings and provides that the assessment team must, on the last day of the review audit, give the approved provider a written report detailing the major findings of the review audit.

The approved provider may, within 7 days after receiving the report, give the CEO of the Quality Agency a written response to the report.

**Section 2.41 - Review audit report**

This section provides that the assessment team must prepare and give the CEO of the Quality Agency, a copy of the report on major findings and the review audit report, within 7 days of the last day of the review audit. The approved provider must also be given a copy of the review audit report within 7 days of completing the review audit.

This review audit report must include an assessment of the approved provider’s performance against the Accreditation Standards in relation to the service and may also include any other matters the assessment team considers relevant.

**Division 5 – Decision following review audit**

**Section 2.42 - CEO must make decision about accreditation of service after receiving review audit report**

This section outlines the steps that the CEO of the Quality Agency must take in making a decision about accreditation of a service after receiving the review audit report.

Within 14 days after receiving a review audit report, the CEO of the Quality Agency must decide whether to:

* revoke the accreditation of the service (and if so, the date the revocation takes effect); or
* not to revoke the accreditation. If the CEO of the Quality Agency decides not to revoke the accreditation, the CEO of the Quality Agency can decide to vary the period of accreditation by fixing a new period for which the service is accredited.

In making a decision, the CEO of the Quality Agency must take into account:

* the review audit report;
* any response to the report of major findings that is given to the CEO of the Quality Agency by the approved provider;
* any information given to the CEO (or the assessment team that conducted the review audit) by a care recipient, a former care recipient or their representative;
* any relevant information received from the Secretary; and
* whether the CEO is satisfied that the approved provider will undertake continuous improvement, measured against the Accreditation Standards if the accreditation is not revoked.

The CEO of the Quality Agency may also take into account any other relevant matter and must record the decision and the reasons for the decision.

The Quality Agency Reporting Principles also require the CEO of the Quality Agency to communicate his or her decision to the Secretary.

**Section 2.43 - Decision to revoke accreditation of service**

This section outlines some additional requirements if the CEO of the Quality Agency decides to revoke accreditation.

If the CEO of the Quality Agency decides to revoke the accreditation of an accredited service, the CEO must also decide:

* whether there are any areas in which improvements to the service would be necessary to meet the Accreditation Standards; and
* the arrangements for assessment contacts. Despite the fact that the accreditation is being revoked, assessment contacts might continue particularly where the service is still providing care and services to care recipients.

These decisions must be recorded by the CEO of the Quality Agency in writing.

**Section 2.44 - Decision not to revoke accreditation of service**

This section describes additional requirements if the CEO of the Quality Agency decides not to revoke the accreditation of a service. If the CEO of the Quality Agency decides not to revoke the accreditation of the accredited service, the CEO must also decide:

* whether there are any areas in which improvements must be made to the service to meet the Accreditation Standards and the timetable for making the improvements; and
* the arrangements for assessment contacts.

 This section applies whether or not the CEO decides to vary the accreditation period of the service.

The CEO of the Quality Agency must record the decision in writing.

**Division 6 – Notification of decision following review audit**

**Section 2.45 - Notification of decision to revoke accreditation of service**

This section provides that if the CEO of the Quality Agency decides to revoke the accreditation of an approved provider following a review audit, the CEO must notify the approved provider (in writing) within 14 days of receiving the review audit report.

The notification must include:

* the decision and the reasons for the decision;
* the date on which the revocation takes effect;
* the areas in which improvements would be necessary to meet the Accreditation Standards. Given that the CEO of the Quality Agency has decided to revoke the accreditation, the approved provider is not required to address the areas of deficiency in accordance with a particular timeframe. However, information about the deficiencies is given to the approved provider so that they are aware of those areas in which improvement must be made should the matter be reconsidered by the CEO of the Quality Agency;
* the arrangements for assessment contacts; and
* information about how to apply for reconsideration of the decision.

The CEO must also notify the Secretary of the decision in accordance with the Quality Agency Reporting Principles.

**Section 2.46 - Notification of decision not to revoke accreditation of service and not to vary accreditation period**

This section provides for the notification of decisions not to revoke accreditation and not to vary the accreditation period. The CEO of the Quality Agency must tell the approved provider, in writing within 14 days of receiving the review audit report, about:

* the decision and the reasons for the decision;
* any areas in which improvements must be made to the service to meet the Accreditation Standards, and the timetable for making the improvements; and
* the arrangements for assessment contacts.

The CEO must also notify the Secretary of the decision in accordance with the Quality Agency Reporting Principles.

**Section 2.47 - Notification of decision not to revoke accreditation of service and to vary accreditation period**

If the CEO of the Quality Agency makes a decision not to revoke accreditation but to vary the period of accreditation (following a review audit) the CEO must within 14 days after receiving the review audit report tell the approved provider for the service, in writing, about:

* the decision and the reasons for the decision;
* the date the service’s accreditation period will cease (that is, the varied period of accreditation);
* the areas in which improvements to the service must be made to meet the Accreditation Standards, and the timetable for making the improvements;
* the arrangements for assessment contacts; and
* how the accredited provider may apply for reconsideration of the decision to vary the accreditation period.

The CEO of the Quality Agency must also give the approved provider a new certificate of accreditation for the service stating the new period of accreditation.

The CEO must also notify the Secretary of the decision in accordance with the Quality Agency Reporting Principles.

**Division 7 – Publication of decisions**

**Section 2.48 - CEO must publish certain decisions made under this Part**

This section provides that, as soon as practicable after making the decision, the CEO of the Quality Agency must publish on the Quality Agency’s website a decision to revoke or not to revoke accreditation of an accredited service, or to vary the period of accreditation. The CEO must also publish any review audit report considered in making the decision.

However, if a decision made is subject to reconsideration (and no request for reconsideration has been made), the CEO must publish the decision and the review audit report within 28 days after the expiration of the period during which the provider could have requested reconsideration.

The CEO must not disclose protected information unless authorised under Part 7 of the Act.

**Part 3 – Registration of quality assessors**

**Section 2.49 - Purpose of this Part**

The purpose of Part 3 is to provide for the registration of quality assessors.

**Section 2.50 - Application for registration as quality assessor**

This section provides that any person, including previous assessors, may apply to the CEO of the Quality Agency to be a quality assessor of residential aged care services. The application must be made in writing in a form approved by the CEO of the Quality Agency and be accompanied by any other information or documents that have been specified in the approved form. If the applicant has been, at any time after turning 16, a citizen or permanent resident of a country other than Australia, the applicant must provide a statutory declaration that the applicant has never been convicted of murder or sexual assault, or convicted of and sentenced to imprisonment for any other form of assault. The application must also be accompanied by the applicable application fee.

The fee for an application will be $600 until 30 June 2014 and will then be indexed in accordance with section 2.73.

**Section 2.51 - Decision on application for registration**

This section provides that theCEO of the Quality Agency must register the applicant as a quality assessor if the CEO of the Quality Agency is satisfied that the applicant:

* has successfully completed a course about aged care quality assessment approved by the CEO of the Quality Agency;
* has participated in an orientation program delivered by the CEO of the Quality Agency;
* has, after making the application for registration, obtained a police certificate. The police certificate must not record any conviction for murder or sexual assault or any conviction (and sentence to imprisonment) for any other form of assault; and
* has fulfilled any other registration requirements agreed by the CEO of the Quality Agency and published by the CEO on the Quality Agency’s website.

The CEO must refuse to register the applicant as a quality assessor if the CEO is not satisfied that the applicant meets these requirements.

If the CEO registers the applicant as a quality assessor, the CEO must register the applicant for 1 year and give the applicant written notice of the applicant’s obligations as a quality assessor.

The CEO must tell the applicant in writing about the CEO’s decision and the reasons for it.

**Section 2.52 - Application for registration for further period**

This section outlines the requirements for applications for registration as a quality assessor for a further period, including that the application must be made in writing and not later than one month before the end of the assessor’s registration period.

The application must be accompanied by evidence that the assessor has completed any mandatory training and not less than 15 hours of professional development approved by the CEO. Evidence of relevant audit experience and the applicable fee for registration must also accompany the application.

The fee for an application will be $300 until 30 June 2014. After that time, the fee will be indexed in accordance with section 2.73.

**Section 2.53 - Decision on application for further registration**

This section outlines the requirements for decisions on application for further registration, including that the CEO of the Quality Agency must register the person as a quality assessor for a further period of one year, if the CEO is satisfied that:

* the person has complied with the assessor’s obligations as a quality assessor (as notified by the CEO);
* the person has completed any mandatory training required by the CEO and at least 15 hours of professional development approved by the CEO;
* the person’s performance in relation to any site audits or review audits conducted during the person’s most recent registration period is satisfactory; and
* a police certificate issued not more than 2 years before the end of the person’s current registrations as a quality assessor does not record that the person has been convicted of murder or sexual assault or convicted of (and sentenced to imprisonment for) any other form of assault.

If the CEO is not satisfied that the assessor meets the requirements detailed above, the CEO must refuse to register the person.

The CEO must notify the person in writing of the decision and the reasons for the decision. If the CEO decides to register the person as a quality assessor, the notice must state when the registration expires and the person’s obligations as a quality assessor.

**Section 2.54 - Quality assessor must inform CEO if convicted of serious offence**

This section provides that if a person who is registered as a quality assessor is convicted of murder or sexual assault or is convicted of (and sentenced to imprisonment for) any other form of assault the person must, as soon as is practicable after the conviction is recorded, inform the CEO of the Quality Agency in writing of the conviction.

**Section 2.55 - Cancellation of registration as quality assessor**

This section provides that the CEO of the Quality Agency must cancel the registration of a person as a quality assessor if a statutory declaration or police certificate for the person states that the person has been convicted of murder or sexual assault or convicted of (and sentenced to imprisonment for) any other form of assault.

The CEO may also cancel the registration of a person as a quality assessor if the person’s performance in undertaking site audits or review audits has been unsatisfactory or the person has not met their obligations as a quality assessor.

If the CEO cancels a person’s registration as a quality assessor, the CEO must notify the person in writing that their registration has been cancelled and the reasons for the cancellation.

A person whose registration has been cancelled may request reconsideration of the decision under Chapter 2 Part 6 of these Principles.

**Section 2.56 - Spent convictions**

This section provides that Part VIIC of the *Crimes Act 1914* is not impacted by the operation of this Part of these Principles. Part VIIC of the *Crimes Act 1914* includes provisions that, in certain circumstances, relieve people from the requirement to disclose spent convictions and require people aware of such convictions to disregard them.

**Part 4 – Assessment teams**

**Section 2.57 - Purpose of this Part**

The purpose of Part 4 is to set out how assessment teams are appointed, the process for objecting to the appointment of a particular team member, and how replacement assessment team members will be appointed.

**Section 2.58 - Eligibility for appointment to assessment team**

This section provides for the CEO of the Quality Agency to appoint a person to an assessment team if the person is a registered quality assessor and is available to complete the audit.

In order to avoid any actual or perceived conflict of interest, the CEO of the Quality Agency must not appoint a person to an assessment team if:

* in the 3 years before the assessment team is created, the person either directly, or through a company, was employed or engaged or otherwise provided services to the approved provider; or
* the person has a financial or other interest that could conflict with a proper audit of the service.

The intention of this exclusion is that any registered assessor who has worked for the approved provider in the previous 3 years (in whatever capacity and regardless of whether they were a volunteer, contactor or employee) will not be appointed to an assessment team undertaking an audit of one of that approved provider’s services.

**Section 2.59 - Appointment of assessment team**

This section provides that the CEO of the Quality Agency must create a team that has one or more members for site audits. While the CEO of the Quality Agency would normally appoint two team members to undertake a site audit, this provision provides flexibility for the appointment of team members (for example, only one member may be appointed for a site review of a very small or remote service).

For review audits the CEO of the Quality Agency must appoint a team with a minimum of 2 members.

**Section 2.60 - Replacement of assessment team member**

This section provides that if a member of an assessment team becomes unavailable during the audit, the CEO of the Quality Agency may appoint a replacement team member. However, if the team was created for a review audit, and only 2 persons were appointed to the team, the CEO *must* appoint another person to the assessment team.

If the CEO of the Quality Agency appoints a replacement member, the CEO must tell the approved provider (for the service that is to be audited) the full name of the replacement member as soon as practicable after the appointment.

**Section 2.61 - Objection to appointment of assessment team member for site audit**

This section outlines how an approved provider can object to the appointment of a member of an assessment team for a site audit, if the approved provider considers that the person is not eligible for appointment.

The approved provider must make the objection, in writing, to the CEO of the Quality Agency within 14 days after the approved provider is told the name of the site audit assessment team member.

 If an approved provider makes an objection, the CEO must, within 7 days of the objection being made, notify the approved provider of the decision to:

* accept the objection (and remove the person from the team). In this case, the CEO may appoint another person to the team to replace the person removed. If the CEO does so, he or she must also notify the approved provider of the full name and replacement team member; or
* reject the objection. In this case the approved provider making the objection may seek reconsideration of a decision to reject the objection (refer Part 6).

Approved providers do not have the opportunity to object to members of review audit teams (noting that review audits often occur on an unannounced basis) nor do they have the opportunity to object to replacement members. For example, if an assessor could not undertake the audit (for example, because of illness), the approved provider cannot object to the replacement member. This is for practical reasons because in these circumstances an imminent audit could be delayed by up to 21 days in order for the approved provider to object and for the CEO of the Quality Agency to consider the objection.

**Part 5 – Dealing with non-compliance by approved provider**

**Section 2.62 - Purpose of this Part**

Part 5 describes how the CEO of the Quality Agency must deal with non-compliance with the Accreditation Standards by an approved provider.

**Section 2.63 - Failure to comply with Accreditation Standards**

This section provides that if the CEO of the Quality Agency identifies that an approved provider has failed to meet one or more of the expected outcomes in the Accreditation Standards, the CEO must, as soon as practicable, decide whether the failure has placed, or may place, the safety, health or wellbeing of care recipients of the service at serious risk.

If the CEO decides that the failure creates such a risk, the CEO must, as soon as practicable, give the approved provider in writing:

* specific information about the reason for the risk;
* evidence of the risk; and
* a statement of any other expected outcome in the Accreditation Standards that the approved provider may have failed to meet.

The CEO must also give the approved provider a written notice about the failure to meet the Accreditation Standards and direct the approved provider to revise their plan for continous improvement to demonstrate how the approved provider will meet the Accreditation Standards. The approved provider must revise the plan for continuous improvement within 14 days of receiving the notice.

If the CEO of the Quality Agency requests a copy of the revised plan for continuous improvement, the approved provider must give a copy of the revised plan to the CEO.

**Section 2.64 - Action if improvements not satisfactory**

This section provides that if the CEO of the Quality Agency has given the approved provider a timetable for improvements and at the end of that timetable the CEO is not satisfied that the care and services provided complies with the Accreditation Standards, the CEO must give the approved provider, in writing, the reasons why the CEO is not satisfied. The CEO must also give the approved provider details of the evidence the CEO relies on to support the finding.

This information must be given as soon as practicable but not later than 14 days after the end of the period in the timetable. If the period in the timetable was extended, the information must be given as soon as practicable but not later than 14 days after the end of the period of extension.

The Quality Agency Reporting Principles also require the CEO to give the Secretary the information described above.

**Part 6 – Reconsideration and review**

**Section 2.65 - Purpose of this Part**

The purpose of Part 6 is to provide for reconsideration and review of certain decisions made under the Principles.

**Section 2.66 - Decisions that may be reconsidered**

This section describes those decisions that may be reconsidered and who may request the reconsideration.

In summary:

* the approved provider for a commencing service may seek reconsideration of a decision by the CEO of the Quality Agency to refuse accreditation of the commencing service; and
* the approved provider of an accredited service may seek reconsideration of a decision by the CEO of the Quality Agency:
* to reject an objection to the appointment of a member of an assessment team for a site audit;
* to refuse to re-accredit an accredited or previously accredited service;
* regarding the period of accreditation of an accredited or previously accredited service;
* to revoke the accreditation of an accredited service; or
* to vary the period of accreditation.

A registered assessor may also seek reconsideration of a decision by the CEO of the Quality Agency to remove the person’s name from the register of quality assessors.

**Section 2.67 - Relevant person may request reconsideration of decision**

This section provides that a request for reconsideration of a decision made by the CEO must be in writing and include a statement of the grounds on which reconsideration is sought. The request must be given to the CEO of the Quality Agency within 14 days after the person making the request is notified of the decision.

**Section 2.68 - CEO must reconsider decision on request by relevant person**

If a request for reconsideration of a decision is made, the CEO of the Quality Agency must reconsider the decision and confirm, vary or set the decision aside and substitute a new decision.

The CEO of the Quality Agency must tell the person requesting reconsideration of the CEO’s decision, in writing:

* within 56 days of the request if the reconsideration relates to a decision by the CEO of the Quality Agency to:
* refuse accreditation of the commencing service;
* refuse to re-accredit an accredited or previously accredited service;
* revoke the accreditation of an accredited service; or
* within 14 days of the request if the reconsideration relates to a decision by the CEO of the Quality Agency:
* to reject an objection to the appointment of a member of an assessment team for a site audit;
* regarding the period of accreditation of an accredited or previously accredited service;
* to vary the period of accreditation; or
* to remove a person’s name from the register of quality assessors.

The CEO must also give the Secretary a copy of the reconsideration decision, as required by the Quality Agency Reporting Principles.

If the CEO decides, on reconsideration, to accredit a commencing service, or re-accredit an accredited or previously accredited service, the CEO must give the approved provider a certificate setting out the accreditation period. If the decision was to vary the period of accreditation for an accredited service, the CEO must give the approved provider a replacement certificate setting out the new accreditation period.

**Section 2.69 - CEO may reconsider decision on CEO’s own initiative**

The CEO of the Quality Agency may reconsider a decision as set out under section 2.66 if the CEO is satisfied there is sufficient reason to do so. The CEO may also reconsider a decision even if no request for reconsideration has been made.

If the CEO decides to reconsider a decision, the CEO must notify the relevant person in writing. After reconsidering the decision, the CEO must either confirm, vary or set aside the decision and substitute a new decision, and notify the person of the decision.

The CEO of the Quality Agency must tell the Secretary and the relevant person of the reconsideration decision, in writing:

* within 56 days if the reconsideration relates to a decision by the CEO to:
* refuse to accredit a commencing service; or
* refuse to re-accredit an accredited or previously accredited service; or
* revoke the accreditation of an accredited service.
* within 14 days if the reconsideration decision relates to a decision by the CEO to:
* decide the period of accreditation of an accredited or previously accredited service; or
* vary the period of accreditation of an accredited service; or
* cancel the registration of a person as a quality assessor; or
* reject an objection to the appointment of a person to an assessment team.

The CEO must also give the Secretary a copy of the reconsideration decision, as required by the Quality Agency Reporting Principles.

If the CEO decides, on reconsideration, to accredit a commencing service, or re-accredit an accredited or previously accredited service, the CEO must give the approved provider a certificate setting out the accreditation period. If the decision was to vary the period of accreditation for an accredited service, the CEO must give the approved provider a replacement certificate setting out the new accreditation period.

**Section 2.70 - Review by Administrative Appeals Tribunal**

This section describes the circumstances in which a request for review may be made to the Administrative Appeals Tribunal (AAT) and provides that a person may apply to the AAT for review of a decision of the CEO of the Quality Agency only following reconsideration of that decision by the CEO. In other words, the approved provider must have first sought reconsideration of a decision by the CEO of the Quality Agency prior to seeking review by the AAT.

**Section 2.71 - Publication of reconsideration decisions**

This section sets out the requirements for the publication of reconsideration decisions. The CEO of the Quality Agency must publish a reconsideration decision on the Quality Agency’s website within 28 days of making the decision, whether the reconsideration was requested by a relevant person or made on the CEO’s own initiative.

In addition to the decision, the CEO must publish any site audit report or the review audit report considered in making the reconsideration decision, but must not disclose protected information unless authorised under Part 7 of the Quality Agency Act.

If a person has applied to the AAT for a review of the reconsideration decision, the CEO must publish a notice stating the decision is subject to review by the AAT.

**Section 2.72 - Publication of AAT decisions**

This section describes the requirements for the publication of AAT decisions.

A decision made by the AAT on a reconsideration decision must be published on the Quality Agency’s website within 28 days of the decision by the AAT. However, the CEO must not disclose protected information unless authorised under Part 7 of the Quality Agency Act.

**Part 7 – Miscellaneous**

**Section 2.73 - Indexation of application fees**

This section provides for indexation of fees payable for applications for accreditation or re-accreditation by residential care services and for applications for registration by quality assessors.

**Chapter 3 – Home care services**

**Part 1 – Preliminary**

**Section 3.1 - Application of this Chapter**

Chapter 3 applies to home care services on and after 1 July 2014.

**Part 2 – Quality review**

**Division 1 – Preliminary**

**Section 3.2 - Purpose of this Part**

This section outlines the purpose of Part 2, which is to make provision for the quality review of home care services.

**Section 3.3 - Quality review of home care services must be conducted every 3 years**

This section provides for the CEO of the Quality Agency to conduct a quality review of each home care service, which must include a site visit, at least once every 3 years.

**Division 2 – Site visits**

**Section 3.4 - Notification of site visit**

This section provides that the CEO must notify the approved provider of a home care service, in writing, of the date of a proposed site visit at least 28 days before the proposed visit. A ***site visit***, as defined in section 1.4, is a visit to the premises of the approved provider of the service. At the same time the CEO must give the approved provider the form of words the approved provider must use to inform care recipients about the site visit.

**Section 3.5 - Approved provider must inform care recipients about site visit**

This section provides that the approved provider of a home care service must take all reasonable steps to notify each care recipient, or the care recipient’s representative, about a proposed site visit at least 21 days before the first day of the site visit.

The notification must include the date or dates for the site visit and inform the care recipient and their representative that they will be given an opportunity to talk with the quality reviewers conducting the site visit. Quality reviewers are staff of the Quality Agency acting under a delegation given by the CEO of the Quality Agency.

If the CEO of the Quality Agency does not give the approved provider at least 21 days notice of the date of the site visit, the approved provider must take all reasonable steps to notify each care recipient, or the care recipient’s representative, as soon as possible after being notified of the date.

**Section 3.6 - Self-assessment information**

This section provides that the approved provider of a home care service must give the self-assessment information for the service to the CEO of the Quality Agency during a site visit. Self-assessment information is written information from the approved provider of the service that demonstrates the provider’s performance, in relation to the service, against the Home Care Standards.

**Section 3.7 - Conducting a site visit**

This section describes the responsibilities of quality reviewers when conducting a site visit. Quality reviewers must:

* act in accordance with any requirements of the Accountability Principles made under the *Aged Care Act 1997*;
* assess the quality of care and services provided through the service against the Home Care Standards;
* consider any information given to the quality reviewer by a former care recipient, a care recipient or a care recipient’s representative about the quality of care and services provided through the service; and
* consider any relevant information given to the CEO:
* by the Secretary; and
* by the approved provider of the service, including the self-assessment information.

**Section 3.8 - Site visit meetings**

This section provides that the quality reviewers must meet with the approved provider each day of the site visit to discuss the progress of the quality review.

If a care recipient or their representative asks to meet the quality reviewers during the site visit, the approved provider must ensure they can meet privately.

**Section 3.9 - Interim quality review report**

This section provides that the quality reviewers must prepare a written interim quality review report about the service after completing a site visit of the service. The CEO of the Quality Agency must give the approved provider a copy of the interim quality review report within 7 days of the site visit.

The report must include an assessment of the approved provider’s performance against the Home Care Standards, including whether each expected outcome has been met, and any other relevant matters.

The approved provider has 14 days to provide the CEO with a written response to the report if they wish to do so.

**Section 3.10 - Final quality review report**

This section provides that the CEO must prepare a final quality review report about the service and give it to the approved provider of the service within 20 days of the approved provider receiving the interim quality review report.

The final report must include:

* an assessment of the approved provider’s performance, in relation to the service, against the Home Care Standards;
* must specify whether each expected outcome in the Home Care Standards has been met or not; and
* for any expected outcome that has not been met, the areas in which improvements in relation to the service must be met to ensure the Home Care Standards are complied with.

The final report may also include other matters the CEO considers relevant.

The CEO cannot disclose certain information to the approved provider under section 4.1 of these Principles.

**Section 3.11 - Approved provider must revise plan for continuous improvement if Home Care Standards not complied with**

This section provides that the approved provider must revise the plan for continuous improvement for the service if the final quality review report includes a finding that one or more of the expected outcomes in the Home Care Standards are not met. The revised plan must be provided to the CEO of the Quality Agency within 14 days of the approved provider receiving the final quality review report.

If the CEO is satisfied that the revised plan for continuous improvement will ensure that all the expected outcomes in the Home Care Standards will be met, the CEO must notify the approved provider, in writing, of the timetable for making the improvements.

At the end of the period set out in this timetable, the approved provider must give the CEO a written report on the improvements made to the service. If the CEO is satisfied that all expected outcomes in the Home Care Standards are met, the CEO must notify the approved provider, in writing, that the quality review for the service is complete.

Section 3.19 deals with the situation if the CEO is not satisfied that all expected outcomes in the Home Care Standards are being met.

**Division 3 – Continuous improvement**

**Section 3.12 - Approved provider must have plan for continuous improvement**

This section provides that the approved provider of a home care service must have a written plan for continuous improvement that sets out how the approved provider will comply with its obligations of continuous improvement under the Home Care Standards and in relation to other areas identified by the CEO of the Quality Agency.

The approved provider will be required to revise the plan for continuous improvement should the CEO find that the approved provider has failed to comply with the Home Care Standards. This process is described in sections 3.11 and 3.18.

**Section 3.13 - Approved provider must make plan available to CEO on request**

This section provides that, if requested, the approved provider of a home care service must give the CEO of the Quality Agency (or the quality reviewers at the site visit) a copy of the plan for continuous improvement.

**Part 3 – Assessment contacts**

**Section 3.14 - Meaning of *assessment contact* for a home care service**

This section defines an assessment contact for the purposes of a home care service. An assessment contact for a home care service is any form of contact (other than a site visit under Division 2 of Part 2) between the CEO (or a quality assessor) and the approved provider of a service for the purposes of:

* assessing the approved provider’s performance in relation to the service against the Home Care Standards;
* assisting the approved provider’s process of continuous improvement in relation to the service;
* identifying whether there is a need for a quality review of the service; and
* giving the approved provider information or education about the quality review process and requirements.

The form that the assessment contact takes is up to the CEO of the Quality Agency or the quality assessor. This may include phone discussions, emails or site visits. Given the wide variety of possible assessment contacts, the CEO of the Quality Agency is not required to give notice to the approved provider before an assessment contact takes place.

**Section 3.15 - Assessment contacts may be made at any time**

This section provides that the CEO of the Quality Agency may, at any time, make an assessment contact with an approved provider of a home care service.

If the assessment contact is to be a visit to a site where home care is provided, that is a ***site visit*** as defined in section 1.4, the CEO must give the approved provider at least 14 days notice, in writing, of the date of the visit to the approved provider’s premises and provide the approved provider with the form of words to be used to tell care recipients about the visit.

**Section 3.16 - Action following assessment contact**

This section provides that, within 21 days of making an assessment contact with the approved provider of a home care service, the CEO of the Quality Agency must notify the approved provider, in writing, of any areas where improvements must be made to ensure the Home Care Standards are met. The CEO must also give the approved provider a timetable for making these improvements.

**Part 4 – Dealing with non-compliance by approved provider**

**Section 3.17 - Purpose of this Part**

The purpose of Part 4 is to set out how the CEO of the Quality Agency is to deal with the failure of an approved provider of a home care service to comply with the Home Care Standards. Paragraph 54(1)(f) of the *Aged Care Act 1997* requires an approved provider to comply with the Home Care Standards.

**Section 3.18 - Failure to comply with Home Care Standards**

This section describes the steps the CEO of the Quality Agency and the approved provider of a home care service must take if the CEO finds that the approved provider has not met one or more of the expected outcomes in the Home Care Standards.

If the CEO decides that the failure to meet the expected outcomes has placed, or may place, the safety, health or wellbeing of a care recipient of the service at serious risk, the CEO must, as soon as practicable, give the approved provider, in writing;

* the reason for, and evidence of, the risk; and
* information about any other expected outcomes the approved provider may have failed to meet.

The CEO must also give the approved provider a written notice about the failure to meet the relevant expected outcomes. The notice must also direct the approved provider to revise their plan for continuous improvement for the service within 14 days of receiving the notice. The approved provider must make the revised plan available to the CEO on request.

The CEO must also notify the Secretary in accordance with the Quality Agency Reporting Principles.

**Section 3.19 - Action if improvements not satisfactory**

This section outlines the actions the CEO of the Quality Agency must take if the CEO is not satisfied that the approved provider of a home care service complies with the Home Care Standards at the end of the period set out in a timetable for making improvements.

Within 14 days of the end of the period in the timetable for improvement (or any extension of that period), the CEO must give the approved provider a written notice setting out the reasons why the CEO is not satisfied, evidence relied on to support this finding, and any other relevant information.

The CEO must also notify the Secretary in accordance with the Quality Agency Reporting Principles.

**Chapter 4 – Other matters**

**Part 1 – Protection of information**

**Section 4.1 - Identifying information must not be disclosed to approved provider**

This section provides for the protection of certain identifying information held by:

* the CEO of the Quality Agency;
* people (including consultants) assisting the CEO;
* staff of the Quality Agency; and
* members of an assessment team.

For the purposes of this section, these people are each regarded as an ‘entrusted person’.

The section operates such that:

* if a care recipient or former care recipient (or either person’s representative) provides information to an entrusted person, the entrusted person must not disclose information that could identify the care recipient (or representative) to the approved provider; and
* if any other person who has provided information about the approved provider to the entrusted person requests that their identity be kept confidential, the entrusted person must not disclose information that could reveal their identity to the approved provider.

This ensures that the identity of care recipients and their representatives remain confidential and the identity of others may be kept confidential if this is the express wish of the person providing the information.

The only exceptions to this rule are:

* if the person expressly consents to the entrusted person disclosing their identity. For example, a care recipient may advise the entrusted person that they consent to have their name disclosed to the approved provider in connection with information they gave to the entrusted person about the quality of care at the service; or
* if not disclosing the information would place the safety or wellbeing of a care recipient at risk.

Under either of these circumstances, the entrusted person must take all reasonable steps to tell the person who provided the information about the proposed disclosure before it occurs.

**Part 2 – Fees**

**Section 4.2 - Purpose of this Part**

Part 2 enables the CEO to charge fees for information, education and support services provided by the CEO.

**Section 4.3 - Fees for materials**

This section provides that the CEO of the Quality Agency may charge fees for providing manuals, documents or other items relating to:

* the promotion of high quality care, innovation in quality management and continuous improvement amongst approved providers of aged care; and
* information, education or training for approved providers in relation to accreditation (for residential care) and quality review (for home care).

The fee that may be charged cannot be greater than the cost of preparing and providing the manual, document or other item.

**Section 4.4 - Fees for seminars or conferences**

This section provides that the CEO of the Quality Agency may charge fees for the cost of arranging or presenting seminars or conferences relating to:

* the promotion of high quality care, innovation in quality management and continuous improvement amongst approved providers of aged care; and
* information, education or training for approved providers in relation to accreditation (for residential care) and quality review (for home care).

The requirements of this section do not prevent the CEO of the Quality Agency from charging a fee for providing manuals, documents or services in the course of the seminar or conference under section 4.3.

However, the fee the CEO of the Quality Agency may charge must not be more than the cost of arranging and presenting the seminar or conference (less any cost that is covered by a fee charged under section 4.3).

The CEO of the Quality Agency is not required to charge a fee, or the same fee, for every person attending a seminar or conference.

**Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***The* *Quality Agency Principles 2013***

The *Quality Agency Principles 2013* are compatible with the human rights and freedoms recognised or declared in the international instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

**Overview of the Legislative Instrument**

The *Australian Aged Care Quality Agency Act 2013* (the Act) establishes a new Australian Aged Care Quality Agency (the Quality Agency) to replace the existing Aged Care Standards and Accreditation Agency Ltd from 1 January 2014. The new body will be the sole agency that providers of aged care, approved under the *Aged Care Act 1997*, will deal with in relation to the quality assurance of the aged care services that they deliver, whether those services are delivered through a residential aged care service or in the person’s own home.

The Quality Agency will commence functions relating to residential aged care services from 1 January 2014, and will commence functions relating to home care services from 1 July 2014.

The Quality Agency Principles (the Principles) describe:

* the process of accreditation for residential aged care services;
* the quality review process for home care services that will commence from 1 July 2014; and
* other matters such as dealing with non-compliance by approved providers and the protection of information.

**Human Rights Implications**

The *Quality Agency Principles*2013 engage the human right to the enjoyment of the highest attainable standard of physical and mental health as set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights. The Quality Agency will promote a high quality of care for the recipients of aged care services and appropriate outcomes for recipients of the care.

The *Quality Agency Principles 2013* also engage the human right to protection against arbitrary interference with privacy as set out in Article 17 of the International Covenant on Civil and Political Rights. The Principles provide that the CEO of the Quality Agency must not disclose (whether by publishing or otherwise making available) protected information, which includes personal information about individuals, unless the disclosure is authorised under Part 7 of the Act. The Principles also provide that an entrusted person must not disclose identifying information to an approved provider of a residential care service or home care service unless either:

* the person who provided the identifying information consents to the disclosure of the information; or
* not disclosing the identifying information would place the safety, health or wellbeing of a care recipient of the service at risk and the entrusted person.

Before disclosing the information, all reasonable steps must be taken to notify the person who provided the information about the proposed disclosure.

**Conclusion**

The *Quality Agency Principles*2013 are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011.*

These Principles are compatible with human rights because they promote the human right to the enjoyment of the highest attainable standard of physical and mental health and, to the extent that the Principles limit the human right to protection against arbitrary interference with privacy, those limitations are reasonable, necessary and proportionate.

**Senator the Hon Mitch Fifield**

**Assistant Minister for Social Services**