

## EXPLANATORY STATEMENT

Issued at the authority of the Minister for Aged Care

*Aged Care Act 1997*

*Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023*

### **Purpose and operation**

The *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023* (Amendment Principles) amend the *Accountability Principles 2014* (Accountability Principles) and the *Records Principles 2014* (Records Principles) to reflect recent changes to the National Aged Care Mandatory Quality Indicator Program Manual 3.0—Part A (Manual).

The Manual is incorporated by reference in the Accountability Principles and Records Principles and specifies requirements relating to the collection and reporting of data by approved providers of residential aged care under the National Aged Care Mandatory Quality Indicator Program (QI Program).

### **Background**

Since 1 July 2019, the Accountability Principles and Records Principles have included responsibilities for all approved providers of residential care to:

- make measurements or other assessments relating to the quality of residential care provided to care recipients against specified quality indicators, in accordance with the Manual;
- compile or otherwise derive from those measurements or assessments information that is relevant to indicating the quality of the care (but is not personal information about any of the care recipients);
- give this information to the Secretary for the Department of Health and Aged Care (Department); and
- keep records required by the Manual.

Since 2019, the three original quality indicators have been expanded and revised. The QI Program currently requires the collection and reporting of data against 11 quality indicators across crucial care areas — pressure injuries, physical restraint, unplanned weight loss, falls and major injury, medication management, activities of daily living, incontinence care, hospitalisation, workforce, consumer experience and quality of life.

Approved providers previously used the My Aged Care Provider Portal to report quality indicator data to the Secretary of the Department. However, approved providers are now required to use the Government Provider Management System (GPMS) to report quality indicator data. The GPMS establishes a modern system to give aged care providers, government, and older Australians access to up-to-date information on the quality and safety of aged care services.

The Manual has been updated to refer to the use of the GPMS for reporting quality indicator data. The quality indicator data required to be reported and recorded by approved providers remains unchanged from the previous version of the Manual. The Amendment Principles amend the Accountability Principles and Records Principles to incorporate these latest updates made to the Manual.

The information collected through the QI Program complements the Department's increased focus on improving the quality of aged care and empowering older Australians with access to information to make informed decisions about aged care.

The Australian Institute of Health and Welfare publishes de-identified national state and territory level QI Program data on the GEN Aged Care Data website ([www.gen-agedcaredata.gov.au](http://www.gen-agedcaredata.gov.au)).

### **Authority**

Section 96-1 of the Aged Care Act provides that the Minister may make Principles providing for matters required or permitted, or necessary or convenient to give effect to the relevant Part or section of the Aged Care Act.

#### Accountability Principles

The Accountability Principles set out matters for the purpose of Part 4.3 of the Aged Care Act (or matters necessary or convenient to carry out and give effect to the matters set out in that Part).

#### Record Keeping Principles

The Records Principles set out matters for the purpose of Part 6.3 of the Aged Care Act (or matters necessary or convenient to carry out and give effect to the matters set out in that Part).

### **Reliance on subsection 33(3) of the *Acts Interpretation Act 1901***

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

### **Documents incorporated by reference**

Pursuant to paragraph 14(1)(b) of the *Legislation Act 2003*, the Manual as in force at the commencement of the Amendment Principles, is incorporated by reference into the Accountability Principles and the Records Principles. This is the date the Amendment Principles take effect.

The Manual can be freely accessed on the Department's website at [www.health.gov.au](http://www.health.gov.au).

### **Commencement**

The Amendment Principles commence on the day after registration.

### **Consultation**

The Department did not consult on the amendment of the Manual as this change was minor and administrative in nature.

### **General**

The Amendment Principles are a disallowable legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Amendment Principles are set out in **Attachment A**.

The Amendment Principles are compatible with the rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility with human rights is set out in **Attachment B**.

**Details of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023***

**Section 1 – Name**

Section 1 provides that the name of the instrument is the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023* (Amendment Principles).

**Section 2 – Commencement**

Section 2 provides that the Amendment Principles commence on the day after registration.

**Section 3 – Authority**

Section 3 provides that the Amendment Principles are made under the *Aged Care Act 1997*.

**Section 4 – Schedules**

Section 4 provides that each provision specified in a Schedule to this instrument is amended or repealed as set out in the Schedule, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 amends the *Accountability Principles 2014* (Accountability Principles) and the *Records Principles 2014* (Records Principles).

**Schedule 1 – Amendments**

***Accountability Principles 2014***

**Item 1 – Section 4 (definition of *National Aged Care Mandatory Quality Indicator Program Manual*)**

This item repeals and replaces the definition of National Aged Care Mandatory Quality Indicator Program Manual (Manual) in section 4 of the Accountability Principles. The new definition updates the version of the Manual that is incorporated by reference from the version in existence on 1 April 2023 to the version in existence on the commencement of the Amendment Principles.

This will ensure the latest version of the Manual requiring use of the Government Provider Management System is the version specified in the Accountability Principles.

**Item 2 – Paragraph 26(b)**

Item 2 substitutes the date of “1 April 2023” for “the commencement of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023*” in paragraph 26(b) of the Accountability Principles.

The effect of this amendment is to ensure approved providers of residential aged care make measurements or other assessments in accordance with the Manual, as well as any relevant measurements and assessments made in accordance with previous versions of the Manual, as existing before the Amendment Principles commenced.

### ***Records Principles 2014***

#### **Item 3 – Section 4**

This item repeals and replaces the definition of the Manual in section 4 of the Records Principles. The new definition updates the version of the Manual that is incorporated by reference from the version in existence on 1 April 2023 to the version in existence on the commencement of the Amendment Principles.

This will ensure the latest version of the Manual requiring use of the Government Provider Management System is the version specified in the Records Principles.

## Statement of Compatibility with Human Rights

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

### *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023*

The *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023* (Amendment Principles) is 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) Act 2011*.

#### **Overview of the legislative instrument**

The purpose of the Amendment Principles is to amend the *Accountability Principles 2014* (Accountability Principles) and the *Records Principles 2014* (Records Principles) to update the version of the National Aged Care Mandatory Quality Indicator Program Manual 3.0 – Part A (Manual) that is incorporated by reference from the version in existence at 1 April 2023 to the version in existence on the date the Amendment Principles commenced.

The Accountability Principles and Records Principles include responsibilities for all approved providers of residential care to:

- make measurements or other assessments relating to the quality of residential care provided to care recipients against specified quality indicators, in accordance with the Manual;
- compile or otherwise derive from those measurements or assessments information that is relevant to indicating the quality of the care (but is not personal information about any of the care recipients);
- give this information to the Secretary for the Department of Health and Aged Care (Department); and
- keep records required by the Manual.

Approved providers previously used the My Aged Care Provider Portal to report quality indicator data to the Secretary of the Department. However, approved providers will now be required to use the Government Provider Management System (GPMS) to report quality indicator data. The GPMS establishes a modern system to give aged care providers, government, and older Australians access to up-to-date information on the quality and safety of aged care services. The Amendment Principles amend the Accountability Principles and Records Principles to incorporate the latest version of the Manual, as in force on the date the Amendment Principles commenced, and which requires use of the GPMS.

The quality indicator data reported by approved providers remains unchanged.

#### **Human rights implications**

The Amendment Principles engage the following human rights:

- the right to an adequate standard of living;
- the right to the enjoyment of the highest attainable standard of physical and mental health;
- the right to prevent acts of cruel, degrading or in humane treatment or punishment; and
- the right that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

The Amendment Principles are compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the *International Convent on Economic, Social and Cultural Rights*.

Quality indicators measure aspects of service provision contributing to the quality of care and services for care recipients. The intent of the QI Program is to enable providers to have robust, valid data to measure, monitor, compare and improve their performance. Information gathered through the QI Program will complement the Department's increased focus on clinical governance, as well as supporting a national focus on high quality care and quality of life for older Australians.

The QI Program aims to achieve quality outcomes against quality indicators directly affecting a care recipient's standard of living and physical health and wellbeing.

- Monitoring and intervention to improve pressure injuries, physical restraint, unplanned weight loss, falls and major injuries, medication management, activities of daily living, incontinence care, hospitalisation, workforce, consumer experience and quality of life, will reduce associated adverse outcomes.
- The medication management quality indicator aims to promote appropriate use of antipsychotics and contributes to reducing the misuse of medications.
- Identifying and monitoring workforce turnover will increase focus on staff retention, which is crucial to support quality and continuity of care.
- Undertaking consumer experience and quality of life assessments aims to promote person centred care to support improved physical and mental health for care recipients.

Further, the Amendment Principles are compatible with the right to prevent acts of cruel, degrading or inhumane treatment or punishment as contained in article 16(1) of the *Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment*.

The physical restraint quality indicator aims to promote a restraint-free environment and contribute to alleviating any degrading and inhumane treatment, including physical injuries of aged care recipients (noting that approved providers also have responsibilities in relation to the use of restrictive practices set out in the *Quality of Care Principles 2014*).

The Amendment Principles are also compatible with the right that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to

unlawful attacks on his honour and reputation as contained in article 17(1) of the *International Covenant on Civil and Political Rights*.

QI Program data is collected by approved providers of residential aged care aligns through existing routine care and management practices. The data is de-identified (without the inclusion of personal information) prior to being provided to the Secretary of the Department. Any infringement of the individual right to privacy is minimised and the risk of an infringement is no greater than the risk under existing arrangements in the provision of residential aged care.

### **Conclusion**

The Amendment Principles 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*. The Amendment Principles promote care recipients' rights to an adequate standard of living, to optimal physical and mental health, to live without fear of cruel, degrading, inhumane treatment while maintaining the right to privacy.

**Minister the Hon Anika Wells**  
**Minister for Aged Care**