Document details

Document Version: 1.1

Release Date: 5 September 2017

Document change history

<table>
<thead>
<tr>
<th>Version</th>
<th>Release Date</th>
<th>Approving officer</th>
<th>Change details</th>
</tr>
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<tbody>
<tr>
<td>1.0</td>
<td>5 September 2017</td>
<td></td>
<td>New module - adapted for pre reading</td>
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<td>Adapted for new Aged Care Quality and Safety Commission</td>
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<td>1.1</td>
<td>3 March 2019</td>
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Resources required

During this module you will be required to refer to the following documents:

- Aged Care Act 1997
- Aged Care Principles
- Accreditation Standards
- Home Care Common Standards
- NACCP: Decision making procedure flowchart
- Quality of Care Amendment (Single Quality Framework) Principles 2018
- Aged Care Quality and Safety Commission Rules 2018

Learner pre-requisites

It is recommended that prior to reading this module you have read:

- Overview of aged care
- Legislative framework

Learning outcome

By the end of this module you will be able to:

- Interpret legislation to identify approved providers responsibilities under the Aged Care Act 1997.

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1. Approved provider responsibilities - compliance/non-compliance with the Aged Care Act 1997

Chapter 4 of the Aged Care Act 1997 (the Act) sets out the responsibilities of a provider of aged care who is approved under the Act. An approved provider who does not comply with its responsibilities under the Act may be subject to compliance action.

Where an approved provider is not complying with its responsibilities under Part 4.1, 4.2 or 4.3 of the Act, the National Aged Care Compliance Program (NACCP) may take action. The NACCP: Decision making procedure provides a visual representation of the NACCP procedure. Under the ‘Referring party’ heading is the box – Department assess information to confirm non-compliance with Part 4.1, 4.3 or 4.3 of the Aged Care Act 1997, as illustrated below.

As you work through this module you will note that Part 4.1, 4.2 and 4.3 link to other sections within the Act and to the Aged Care Principles. It is imperative that you consider the identified linkages when assessing an approved provider’s compliance with its responsibilities under the Act.

If providing residential aged care, the organisation must also be accredited by the Aged Care Quality and Safety Commission, which assesses the performance of aged care services in accordance with the Quality of Care Principles 2014 and from 1 July 2019, Quality of Care Amendment (Single Quality Framework) Principles 2018.
2. Part 4.1 - Quality of care

During this section, you will be required to refer to the Accreditation and Home Care Common Standards and Quality of Care Amendment (Single Quality Framework) Principles 2018. Turn to and read Part 4.1 of the Act.

Section 54-1
What does subsection 54-1(1) relate to?

What does paragraph 54-1(1)(a) tell you?

The Quality of Care Principles include:
- Part 2 – Residential care services
  - Approved providers responsibilities
  - Accreditation standards.
- Part 3 – Home Care Services
  - Approved providers responsibilities
  - Home Care Standards.
- Schedule 1 – Care and Services for residential care services
- Schedule 2 – Accreditation Standards
- Schedule 3 – Care and services for home care services
- Schedule 4 – Home Care Common Standards.
What does paragraph 54-1(1)(b) mean?

Neither the Act nor the Aged Care Principles specify staffing ratios. List why you think this is the case.

Paragraph 54-1(1)(c) links an approved provider’s responsibilities to the User Rights Principles for the specified paragraphs. Will cover Paragraphs 56-1(m), 56-2(k) and 56-3(l) later in this module. The User Rights Principles include:

- Part 2 – Residential care services
  - Responsibilities of approved providers for residential care – general
  - Responsibilities of approved providers for residential care – provision of information
  - Resident agreements.
- Part 3 – Home care services
  - Responsibilities of approved providers of home care – general
  - Responsibilities of approved providers of home care – provision of information
  - Home care agreements.
- Part 4 – Miscellaneous
- Part 5 – Transitional provisions
- Schedule 1 – Charter of care recipients’ rights and responsibilities – residential care
- Schedule 2 – Charter of care recipients’ rights and responsibilities – home care.

Paragraph 54-1(1)(d) links the responsibilities of an approved provider of a residential care service to the Accreditation Standards. You identified earlier that the Quality of Care Principles include Schedule 2 – Accreditation Standards.
In the Legislative framework module pre reading, you would have identified that the Accreditation Standards consist of four standards and:

- each standard consists of a principle and a number of expected outcomes
- 44 expected outcomes
- residential care services must comply with all 44 expected outcomes at all times.

Paragraph 54-1(1)(f) links the responsibilities of an approved provider of a home care service to the Home Care Standards. You identified earlier that Schedule 4 Quality of Care Principles is the Home Care Common Standards.

Like the Accreditation Standards you also looked at the Home Care Standards in the Legislative framework module and identified that the Home Care Common Standards:

- apply to Home Care and Commonwealth Home Support Programme (CHSP), where written into the funding agreement/contract
- consists of three standards and each standard consists of a principle and a number of expected outcomes
- has 8 expected outcomes.

It is crucial that NACCP officers working on quality of care cases understand the Accreditation and Home Care Common Standards, as Part 4.1 of the Act, link directly to these standards.

Sections 54-2, 54-4 and 54-5

Sections 54-2, 54-4 and 54-5 provide:

- a strategic overview for the relevant standard
- that the Quality of Care Principles may set out the relevant standard.
Activity - Quality of care
Review Part 4.1 of the Act and the Quality of Care Principles to answer the questions below.

1. Paragraph 54-1(1)(a) requires an approved provider to provide such care and services as are specified in the Quality of Care Principles. Where in the Quality of Care Principles are care and services listed?

2. Schedule 1 – Care and services for residential care services of the Quality of Care Principles consist of three parts. Explain what each part covers.

3. A care recipient in a residential care service is medically diagnosed as suffering from the cognitive impairment, dementia. Does the approved provider have the discretion to provide individual therapy activities for this care recipient? Support your answer with legislative references.

Fill in the blank/s
4. Paragraph 54-1(1)(d) requires an approved provider who provides care through a residential care service to comply with the Accreditation Standards. The Accreditation Standards are set out in Schedule _____ of the Quality of Care Principles.
5. Schedule 3 of the Quality of Care Principles relates to ______ _____ ______ ______ services.


Fill in the blank

7. Paragraph 54-1(1)(f) requires an approved provider who provides care through a home care service to comply with the Home Care Standards. The Quality of Care Principles sets out the ______ ______ ______ ______ at Schedule 4.

8. Paragraph 54-1(1)(b) requires an approved provider to maintain an adequate number of appropriately skilled staff. List evidence that may demonstrate an approved provider is not complying with this responsibility.

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________________________________________________________________________

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________________________________________________________________________
3. Part 4.2 - User rights

Turn to and read Part 4.2 of the Act.

Sections 55-1 and 55-2
Section 55-1 describes what Part 4.2 is about and links the approved provider’s failure to meet its responsibilities in Part 4.2 to sanctions being imposed under Part 4.4.
Section 55-2 highlights the linkage of a care recipient’s user rights to the User Rights Principles.

Section 56-1
Section 56-1 relates to residential care.

What type of care recipient does paragraph 56-1(a) relate to?

____________________________________________________________________

____________________________________________________________________

What does paragraph 56-1(a) mean?

____________________________________________________________________

____________________________________________________________________

What type of care recipient does paragraph 56-1(b) relate to?

____________________________________________________________________

____________________________________________________________________
What does paragraph 56-1(b) mean?

________________________________________________________

________________________________________________________

Note: On 1 July 2014, major legislative amendments took effect, including the removal of the differentiation between high and low care places. Prior to these amendments the legislation only required bonds to be paid if a care recipient was in a low care place, therefore care recipients in high care were not required to pay a bond. Grandfathering arrangements were put into place when the Act changed to ensure the same conditions are applicable to these care recipients for as long as they remain in care.

- A care recipient can elect to become ‘not a continuing’ care recipient however they forgo any legislative arrangements that they had pre 1 July 2014 under the Act.

Accommodation bonds were paid by care recipients in low care places pre 1 July 2014. Refundable accommodation deposits are paid by care recipients who are assessed as being able to afford the deposit.

Paragraph 56-1(c) relates to care recipients who have paid an entry contribution. Entry contributions were amounts paid by residents who entered care prior to 1 October 1997. The provisions of this paragraph only relate to approved providers with care recipients who paid an entry contributions and entered care before 1 October 1997. The subsection also links to the Aged Care (Transitional Provisions) Principles.

What does paragraph 56-1(d) relate to?

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________________________________________________________

Paragraph 56-1(e) relates to the responsibilities of an approved provider in relation to other care and services provided to care recipients. These are care and services other than those the approved provider is already required to provide. The care and services must be additional to the care and services required under the Quality of Care Principles Schedule 1. An approved provider is only able to lawfully charge an additional fee for care or services if:

- The care recipient agrees to the fee prior to the fee being imposed. This means the approved provider must allow the care recipient to elect to receive some or all of the care or services for an agreed cost based on charges notified to the care recipient.
- The care recipient receives an itemised account of the care or services being provided in exchange for the fee.
- The care recipient is able to take up the benefit that is being offered in exchange for the fee i.e. the care recipient has capacity to use the benefit.
- That which is provided in exchange for the fee or charge can properly be characterised as for 'a care or service'.
- The additional fee is for care or a service that the approved provider is not already required to provide under the Act.

Note: If the approved provider is already required to provide the care or service under the Act, or the fee is in effect a payment for accommodation, it would be unlawful for the approved provider to charge an additional fee for that service. With the exception of items in Part 3 of Schedule 1 to the Quality of Care Principles 2014, which must be provided to all care recipients who need them but can be charged for if the care recipient is not in a category listed in section 7(6) of those Principles. These issues are at least in part, currently before the Federal Court.

What is security of tenure in a residential care service?

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What does paragraph 56-1(f) tell you?

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*Turn to and read sections 6 and 7 of the User Rights Principles.*

Section 6 of the User Rights Principles covers when an approved provider may ask or require a care recipient to leave its residential care service. This includes the exhaustive list of circumstances that have to exist in order for an approved provider to ask a care recipient to leave and an obligation on the approved provider to ensure that suitable alternative accommodation is available before asking a care recipient to leave (or implying that a care recipient must leave). Accommodation is suitable only if the accommodation meets the care recipient's long-term needs as assessed by an ACAT, or two (2) medical or other health practitioners (one (1) of whom is independent of the approved provider).

Section 7 of the User Rights Principles sets out how an approved provider must notify a care recipient asked to leave the residential care service and the timeframes for notification for leaving. It also covers notice requirements if a care recipient is no longer required to leave the service.

Why would the Act offer security of tenure provisions?
Activity – Security of tenure provisions
Identify the Act objects that link directly to the responsibilities of approved providers of residential care outlined in section 6 of the User Rights Principles.

Extra service places involve an approved provider providing a significantly higher standard of accommodation, food and services to care recipients. Extra service places can attract an additional extra service fee. Not all places have extra service status; approved providers need to have applied to the department and have been granted extra service status (with the pricing of an extra service fee to be approved by the Aged Care Pricing Commissioner). Arrangements around extra service status changed on 1 July 2014, and as a result, the number of extra service places has decreased.

Paragraph 56-1(g) sets outs that it is a responsibility of an approved provider to comply with Division 36, which specifies:
- when residential care can be provided on an extra service basis
- that extra service agreements must not be entered into under duress
- contents of an extra service agreement
- protection for existing care recipients.

Division 36 also links to Extra Service Principles.

Paragraph 56-1(ga) links an approved provider’s responsibilities to Part 3A.3, which covers managing refundable deposits, accommodation bonds and entry contributions. Part 3A.3 relates to prudential compliance cases. Approved providers need to meet certain conditions when managing care recipients’ bonds and refundable accommodation deposits. The department’s policy position is that section 52P-1 requires the approved provider to return any refundable accommodation deposit to the care recipient (or their estate) on their departure from the service. These conditions are established to protect the financial interests of the care recipients that have paid a refundable accommodation deposit and the government, as it underwrites a guarantee of bond refunds and refundable accommodation deposits. Based on the way that this section is written it may be interpreted a refund could be made to a third party.

Paragraph 56-1(h) relates to resident agreement, which have the meaning of section 59-1. An approved provider must:
- offer a care recipient the opportunity to enter into a resident agreement
- enter in a resident agreement if the care recipient wishes to.

A resident agreement sets out the terms and conditions for a care recipient and the service once a care recipient accepts a place at the service.
What does paragraph 56-1(i) link to?


What does paragraph 56-1(j) tell you?


What does paragraph 56-1(k) tell you?


User Rights Principles section 8(1) states:

- For subsection 56-1(k) of the Act, if a care recipient in a residential care service has asked a person to act for the care recipient, the approved provider of the service must allow the person access to the service at any time.

Paragraph 56-1(l) allows advocates or Community Visitors Scheme (CVS) access to a service. An approved provider has not complied with this responsibility where it denies a person acting for a body that has received a grant under Part 5.5 or Part 5.6 of the Act access to the service. The NACCP would most likely become aware of this non-compliance on receipt of a referral from the Quality and Safety Commission Complaints Resolution Group (Complaints Resolution Group).

Paragraph 56-1(m) links an approved provider's responsibilities to the User Rights Principles, which includes Schedule 1 – Charter of care recipients' rights and responsibilities - residential care.

Activity - Charter of care recipients' rights and responsibilities - residential care

Read the User Rights Principles Schedule 1 – Charter of care recipients' rights and responsibilities - residential care, and then answer the following questions.

1. Do any of the rights or responsibilities seem unreasonable to you? If so, explain why it is unreasonable.

2. Are there any care recipients' rights that an approved provider may struggle to provide? If so, explain your rationale.
3. Two care recipients residing in the same service form a consensual intimate relationship. The service receives a request, from a relative of one of the care recipient’s, to put strategies in place to discourage the relationship.

Based on care recipients’ rights what does the approved provider need to consider?

Paragraph 56-1(n) captures the rights and responsibilities included in the Fees and Payments Principles and the User Rights Principles, which are not covered in paragraphs 56-1(a) to 56-1(m). This paragraph is generally used by the Prudential Risk and Compliance Section, as the Fees and Payments Principles include the Prudential Standards, which includes the refundable deposit register, disclosure standards, permitted uses of refundable deposits and accommodation bonds.

Section 56-2

Turn to and read section 56-2 of the Act.

Section 56-2 relates to approved providers general responsibilities relating to home care. You may have identified that some of the paragraphs are the same or similar to 56-1.

What does paragraph 56-2(a) tell you?

For paragraph 56-2(b) to apply, subparagraphs (i) and (ii) need to be met. The approved provider cannot charge more for specified care and services than the amount permitted and it must comply with rules relating to home care fees. As opposed to residential care fees, how much an approved provider can charge for home care services is still uncertain. The pricing of home care fees is very much dependent
on the care recipient agreeing to pay a certain amount for particular services listed under the Quality of Care Principles.

Paragraph 56-2(c) links to an approved provider's responsibilities relating to paragraph 54-1(1)(a) which links to the Quality of Care Principles and relates to the Aged Care (Transitional) Act. An approved provider cannot charge a care recipient an entry/commencement fee for providing home care. For paragraph 56-2(c) to apply subparagraphs (i) and (ii) need to be met.

Paragraph 56-2(d) sets outs that where a care recipient and an approved provider have agreed on an amount for other care or services (that is, care and services not listed in the Quality of Care Principles), the approved provider is restricted from charging more than the agreed amount. An approved provider must provide the care recipient an itemised account for other care or services.

An approved provider is only able to lawfully charge an additional fee for care or services if:

- The care recipient agrees to the fee prior to the fee being imposed. This means the provider must allow the care recipient to elect to receive some or all of the care or services for an agreed cost based on charges notified to the care recipient.
- The care recipient receives an itemised account of the care or services being provided in exchange for the fee.
- The care recipient is able to take up the benefit that is being offered in exchange for the fee (i.e. the care recipient has capacity to use the benefit).
- That which is provided in exchange for the fee or charge can properly be characterised as for ‘a care or service’.
- The additional fee is for care or a service that the provider is not already required to provide under the Act – as listed in Part 1 of Schedule 3 to the Quality of Care Principles – and is not excluded under Part 2 of Schedule 3 to the Quality of Care Principles.

Paragraph 56-2(e) sets out that care and services are to be provided in accordance with the agreement.

Paragraph 56-2(f) sets outs that security of tenure applies to a care recipient's place in home care and links to the User Rights Principles.

Section 17 User Rights Principles

Turn to and read section 17 of the User Rights Principles.

Is security of tenure mandatory?

Section 17 also lists the circumstances when an approved provider may cease to provide home care to a care recipient.

Paragraph 56-2(g) sets out that an approved provider must offer a care recipient the option to enter into an agreement. If the care recipient requests to enter into an agreement the approved provider must enter into an agreement.

Like residential care, approved providers of home care are required to comply with Division 62, which outlines an approved provider’s responsibilities relating to protection of personal information relating to a person to whom the approved provider provides aged care.

Approved provider responsibilities For Official Use Only
Like residential care, approved providers of home care are required to comply with section 56-4, which outlines the actions an approved provider must take in providing complaints resolution mechanisms.

Paragraph 56-2(j) sets out that an approved provider has not complied with its responsibilities where it denies a person acting for a body that has received a grant under Part 5.5 of the Act access to the service. As in the case of residential care the NACCP would most likely become aware of an approved provider who has not complied with this responsibly as a result of a referral from the Complaints Resolution Group.

Paragraph 56-2(k) refers to the User Rights Principles, which includes Schedule 2 – Charter of care recipients’ rights and responsibilities – home care.

Activity - Charter of care recipients’ rights and responsibilities – home care

Read the User Rights Principles Schedule 2 – Charter of care recipients’ rights and responsibilities – home care and then answer the questions.

1. How does the Charter of care recipients’ rights in home care differ to the Charter of care recipients’ rights in residential care?
Section 56-2
Paragraph 56-2(l) captures approved providers responsibilities that are included in the Fees and Payments Principles and the User Rights Principles and are not covered in paragraphs 56-2(a) to 56-2(k).

Section 56-3
*Turn to and read section 56-3 of the Act*
Section 56-3 outlines the responsibilities approved providers who provide flexible care.
Paragraph 56-3(a) links to the User Rights Principles and approved providers responsibilities relating to certain levels of quality of care and the cost of that care.
Paragraph 56-3(b) sets out that an approved provider must comply with the requirements of Part 3A.2 in relation to any "accommodation payment where a care recipient first entered a flexible care service from 1 July 2014 onwards.
Paragraph 56-3(c) sets out that an approved provider cannot charge additional fees in relation to accommodation bond and accommodation charge other than the amount permitted under the Aged Care (Transitional Provisions) Act for a care recipient who first time entered flexible care before 1 July 2014.
Paragraph 56-3(d) links an approved provider's responsibilities in relation to entry contribution to the Prudential Standards and the Aged Care (Transitional Provisions) Principles.
What does paragraph 56-3(f) tell you?

Subsection 56-3(ga) links an approved provider responsibilities to Part 3A.3, which provides that refundable deposits, accommodation bonds and entry contributions must be managed in accordance with the prudential requirements made under Division 52M (i.e. an approved provider must comply with the Prudential Standards set out in the Fees and Payments Principles) and the rules set out in Division 52N (permitted uses) and Division 52P (refunds).
Like residential care and home care providers, providers of flexible care are required to comply with Division 62, which outlines an approved provider’s responsibilities relating to protection of personal information relating to a person who the provider provides aged care.
Like residential care and home care providers, providers of flexible care are required to comply with section 56-4, which outlines the actions an approved provider must take in providing complaints resolution mechanisms.

Paragraph 56-3(k) sets out that an approved provider has not complied with its responsibilities where it denies a person acting for a body that has received a grant under Part 5.5 of the Act access to the service. Like residential and home care the NACCP would most likely become aware of an approved provider’s non-compliance with this responsibility by the way of a referral from the Complaints Resolution Group - where the Resolution Group has been unable to resolve a complaint or the approved provider has failed to comply with a Direction.

Paragraph 56-3(m) catches all other approved provider responsibilities relating to flexible care not already captured in paragraphs 56-3(a) – 56-3(l).

Section 56-4

*Turn to and read section 56-4 of the Act.*

Is it mandatory for an approved provider to have a complaint resolution mechanism available to care recipients and their relatives the responsibility?

Subsection 56-4(1) links to the User Rights Principles - as it provides a mechanism to enforce care recipient rights under to complain about a service (either residential or home care) – see paragraph 1(s) of Schedule 1 and subsection 1(6) of Schedule 2 to the User Rights Principles. It also links to the 'Complaints and provider responsibility information' *Aged Care Quality and Safety Commission Rules 2018*. Even though the Complaints and provider responsibility information relates to situations where a person can make a complaint to the Complaints Resolution Group, this does not prevent the Secretary from taking action under Part 4.4 of the Act in relation to an issue raised in a complaint or an issue raised in information received by the Complaints Resolution Group.

Subsection 56-4(2) sets out that a resident agreement entered into between a care recipient and an approved provider must specify the complaints resolution mechanism that the approved provider will use to address complaints made by or on behalf of the care recipient.

Subsection 56-4(3) sets out that the complaints resolution mechanism in home care services must be the mechanism outlined in the agreement.
Section 56-5

*Turn to and read section 56-5 of the Act.*

Links the responsibilities set out in Division 56 to aged care services that receive Australian Government-subsidises.

Section 59-1

*Turn to and read section 59-1 of the Act*

*Explain what section 59-1 cover.*

Subsection 59-1 (1) lists the mandatory minimum content to be included in a resident agreement and covers permanent and respite residential care (services and fees), security of tenure, complaints resolution mechanisms, care recipient responsibilities.

Resident agreements do NOT change the intent of the Act.

Subsection 59-1 (2) requires a resident agreement to comply with the User Rights Principles.

Subsection 59-1 (3) sets out that an approved provider must ensure the resident agreement complies with Commonwealth laws.

List Commonwealth laws that the approved provider must ensure that the resident agreement complies with.

A resident agreement can incorporate the terms of an extra service agreement (and an accommodation agreement). Resident agreements must also comply with state and territory and commonwealth contract law and consumer rights. Resident agreements do NOT change the intent of the Aged Care Act.
Section 61-1

Turn to and read section 61-1 of the Act.

List what subsection 61-1(1) covers.

___________________________________________________________________________

___________________________________________________________________________

Subsection 61-1(2) requires a home care agreement to comply with the User Rights Principles (in particular, see Part 3, Division 4 of the User Rights Principles). Like residential care providers, approved provider of home care must ensure the home care agreement complies with other Commonwealth laws.

Division 62

Turn to and read Division 62 of the Act.

Division 62 relates to the responsibilities of all approved providers of aged care in relation to the protection of personal information. Section 62-2 outlines circumstances when personal information can be released.
4. Part 4.3 - Accountability

Section 63-1

Turn to and read section 63-1 of the Act.

Section 63-1 sets out the responsibilities of an approved provider in relation to accountability and links to other areas of the Act and the Accountability Principles including but not limited to:

- keeping and retaining records to Part 6.3 of the Act.
- cooperation with a person exercising powers under Part 6.4 and Division 94B of the Act
- obligations that arise from being an approved provider
- obligations relating to the care needs of care recipients
- Aged Care Funding Instrument (ACFI) appraisals and reappraisals.

Part 6.3 outlines:

- records that must be kept
- how records may be kept – electronic or written
- how long records must be retained.

Part 6.3 also links to the Records Principles.

Activity - Records Principles

Turn to and read the Records Principles and then answer the following questions.

1. List two records that an approved provider must keep relating to care recipients.

2. In addition to the records outlined in section 7 of the Records Principles what other records must an approved provider keep under the Records Principles?

3. After reporting an allegation of a reportable assault to the department an approved provider destroys the paperwork relating to the incident. Has the approved provider complied with its responsibilities under the Records Principles? Please explain.
4. How long is an approved provider who ceases to provide permanent care to a care recipient required to maintain the records mentioned in section 7 of the Records Principles?

Paragraph 63-1(1)(h) will become more relevant to compliance officers working in the Compliance Centre after ACFI compliance is transferred to the Compliance Centre.

Paragraph 63-1(1)(k) links to paragraph 66-2(1)(b) and with any undertaking the approved provider gives for the purpose of section 67-4. We will discuss this linkage in more detail in the face to face component of the Compliance officer training.

If an approved provider’s responsibility is not specified in the Act but it is in the Accountability Principles then the approved provider must comply based on paragraph 63-1(1)(m).

Section 63-1AA

Section 63-1AA sets out the responsibilities an approved provider of residential care relating to an allegation or suspicion of reportable assault. The section defines reportable assault and staff member and provides the timeframe that an approved provider must make a report regarding the reportable assault to the police and the Secretary. It also links to the Accountability Principles.

Subsection 63-1AA(3) states that an approved provider’s obligation to report an allegation or suspicion of a reportable assault does not apply in circumstances set out in the Accountability Principles. Part 7 of the Accountability Principles set out these circumstances.

This does not exempt an approved provider from still keeping a record of the allegation or suspicion of a reportable assault (see section 8 of the Records Principles).

Compulsory reports are received by the Compulsory reporting centre based in Tasmania. On receipt of a report, the Compulsory reporting officer assesses the report to determine if the approved provider has complied with its responsibilities under the Act. Where the approved provider has not complied the compulsory reporting team should refer the non-compliance to the Compliance Centre.

Section 63-1A
Turn to and read section 63-1A through to 63-1(C) of the Act.

Subsection 63-1A(2) uses the word reasonable. Reasonable means just, rational, appropriate, ordinary or usual in the circumstances. Therefore for an approved provider to comply with this subsection appropriate or rationale steps need to be taken to ensure no key personnel are a disqualified individual. We will explore reasonable in more detail during the face to face component of the Compliance officer training.

Division 10A provides the meaning for disqualified individuals. Section 10A-1 states - For the purposes of this Act, an individual is a disqualified individual if:

(a) the individual has been convicted of an indictable offence; or
(b) the individual is an insolvent under administration; or
(c) the individual is of unsound mind.

Section 10A-2 specifies that it is an offence under the Criminal Code if a disqualified individual is a key personnel of an approved provider.

List reasonable steps that an approved provider may take to ensure its key personnel are not disqualified individuals.

Section 63-1B
Section 63-1B only relates to a residential care service and requires an approved provider to notify the Secretary when a care recipient entered care on or after 20 March 2008. It also links to the Accountability Principles - which state the approved provider must notify the Secretary within 28 days.

The current process requires an approved provider to complete the Department of Human Services (DHS) form 'Aged Care Entry Record (AC021)'. On receipt of a completed form, DHS enter the details into the IT system SPARC. SPARC was covered in the pre reading module Record keeping.

Section 63-1C
Section 63-1C relates to section 8-5 Notification of Secretary's determination whether the applicant has been approved as a provider of aged care. Subsection 8-5(3) relates to a written notice given to the applicant at the time of approval of any circumstance that the Secretary is satisfied materially affects the applicant's suitability to provide aged care. Where an approved provider fails to comply with the Secretary's request, the approved provider becomes non-compliant with its responsibilities.

Section 63-2
Turn to and read section 63-2 of the Act.

Who does this responsibility apply to?
What report does section 63-2 relate to?

Activity - Identify the non-compliance
Read the scenarios and identify:
1. If the information shows non-compliance.
2. If there is non-compliance, the section of the Act that the approved provider has not complied with.

Scenario 1
You receive a Quality and Safety Commission Review audit report for residential service, which states that the service met 39 out of 44 expected outcomes of the Accreditation Standards. The evidence provided by the Quality and Safety Commission shows that the approved provider has not met Standard 1.7, Standard 2.3, 2.8, 2.11 and 2.12. The evidence relates to the care provided to two care recipients who receive Commonwealth subsidy for their care.
Does the information show non-compliance?

What is the section of the Act that the approved provider has not complied with?

Scenario 2
You receive a Quality and Safety Commission assessment contact report for a residential service. The report states that the service did not meet expected outcomes 2.4 and 2.7.
Does the information indicate non-compliance?

If you identify non-compliance, what section of the Act has the approved provider not complied with?
Scenario 3
You receive a Quality and Safety Commission review audit decision, a Quality and Safety Commission audit report and Quality and Safety Commission assessment contact report for a residential service. The Quality and Safety Commission reports include the following statements:

- "Care recipients and representatives reported dissatisfaction with the responsiveness of staff and adequacy of care."
- "No registered nurse was on duty for five consecutive nights."
- "Management were unable to demonstrate care recipients receive care appropriate to their needs and preferences."
- "Four of 10 care recipients and representatives stated they are not satisfied with the clinical care provided by staff."
- "Ten care recipients did not have care plans."
- "Care recipients' continence is not being managed effectively."
- "Staff advised they are unable to consistently provide the care according to the care plan, and four of 10 care recipients and representatives reported they are not satisfied with the assistance staff provide to manage care recipients' continence."

Does the information indicate non-compliance?

If you identify non-compliance, identify the quotes that support non-compliance and document the responsibility under the Act that the approved provider not complied with?

Scenario 4
An Aged Care Funding Instrument (ACFI) review officer conducted an ACFI review visit to assess the accuracy of appraised level of care for ten care recipients at a service. The review officer identified four instances where the provider could not produce the required records to support the subsidy claims.

Does the information show non-compliance?

If you identify non-compliance, what section of the Act has the approved provider not complied with?

Scenario 5
An approved provider, who commenced operating their service five (5) years ago, supplied full bank statements for their refundable deposit account and partial working (operational) account bank
statements. A review of the statements by a National Aged Care Compliance Program officer identified the following abnormalities:

- The refundable accommodation deposit (RAD) register notes:
  - care recipient Mr Smith had an outstanding RAD payment of $100,000
  - Mr Smith's payment was due in December 2016
  - no other outstanding accommodation deposits.
- On 5 January 2017, $103,020 was deposited into the working (operational) account.
- On 5 January 2017, the refundable accommodation deposit register shows Mr Smith paid $100,000.
- There were no deposit(s) made into the refundable deposit account during January 2017.
- There have been no transfers from the working (operational) account to the refundable deposit account since November 2016.
- Over a period of time, the $100,000 deposited into working (operational) account was used to pay operational expenses.

Does the information show non-compliance?

If you identify non-compliance, what section of the Act has the approved provider not complied with?

Identifying non-compliance with Part 4.1, 4.2 or 4.3 is a crucial step in assessing information.

Where it has been identified that an approved provider is not complying with its responsibilities under the Act, the next step is to determine the level of risk that its non-compliance presents to the health, safety and well-being of current and future care recipients.

We will explore risk in more detail in the face to face compliance officer training.
5. Answers

Section 54-1
What does subsection 54-1(1) relate to?
An approved provider's responsibly in relation to the quality of aged care to be provided. What does paragraph 54-1(1)(a) tell you?
Links an approved providers care and service responsibilities to the Quality of Care Principles and details more specific care and services that need to be provided.
What does paragraph 54-1(1)(b) mean?
Approved providers have the discretion in regards to their staffing numbers however they must maintain an adequate number of appropriate skilled staff to ensure care recipient needs are met.
Neither the Act nor the Aged Care Principles specify staffing ratios. List why you think this is the case.
The Act requires approved providers of residential aged care to meet quality standards to ensure quality care and services are provided to all care recipients. The standards cover a range of outcomes including human resources management, and health and personal care. The standards also require approved providers to ensure there are adequate numbers of appropriately skilled staff to meet care recipients' needs. The number of staff-to-care recipients varies across aged care homes based on care recipient mix and needs, which fluctuate, the facility size and design, and how work is organised including the extent to which services are outsourced. As there is no single optimum staffing level or mix that meets all circumstances in providing quality residential aged care, Commonwealth law does not include mandatory staff-to-care recipient ratios. Rather, it is the responsibility of individual aged care approved provider's to use Government subsidies to ensure they have the staffing mix and numbers they require for their care recipients to receive high quality care.

Quality of care
Review Part 4.1 of the Act and the Quality of Care Principles to answer the questions below.
1. Paragraph 54-1(1)(a) requires an approved provider to provide such care and services as are specified in the Quality of Care Principles. Where in the Quality of Care Principles are care and services listed?
   Residential care - Schedule 1 of the Quality of Care Principles
   Home Care - Schedule 3 of the Quality of Care Principles
2. Schedule 1 - Care and services for residential care services of the Quality of Care Principles consist of three parts. Explain what each part covers.
   Part 1 - Hotel Services - must be provided to all care recipients who need them Part 2 - Care and Services - must be provided for all care recipients who need them Part 3 - Care and services - must be provided for all care recipients who need them - fees may apply
Where a care recipient’s classification includes an ACFI high care category or a medium category in two domains, or they come under one of the other provisions in section 7(6) of the Quality of Care Principles they must not be charged an additional fee for care and services delivered under Part 3. A care recipient whose classification does not include an ACFI high care category or a medium category in two domains and who is not covered by the other provisions in section 7(6) of the Quality of Care Principles may be charged additional fees by the approved provider for care and services delivered under Part 3.

3. A care recipient in a residential care service is medically diagnosed as suffering from the cognitive impairment dementia. Does the approved provider have the discretion to provide individual therapy activities for this care recipient? Support your answer with legislative references.

No discretion – Paragraph 54-1(1)(a) links to the Quality of Care Principles, the Quality of Care Principles Schedule 1 Part 2 states that an approved provider ‘must’ provide care and services to care recipients who need them. Item 2.9 Support for care recipients with cognitive impairment states that an approved provider must provide individual attention and support including individual therapy activities.

4. Paragraph 54-1(1)(d) requires an approved provider who provides care through a residential care service to comply with the Accreditation Standards. The Accreditation Standards are set out in Schedule 2 of the Quality of Care Principles.

5. Schedule 3 of the Quality of Care Principles relates to Care and services for home care services.

   It lists items that must not be included in packages of care and services including:
   - Purchase of food, except as part of enteral feeding requirements
   - Payment of home care fees

7. Paragraph 54-1(1)(f) requires an approved provider who provides care through a home care service to comply with the Home Care Standards. The Quality of Care Principles sets out the Home Care Common Standards at Schedule 4.

8. Paragraph 54-1(1)(b) requires an approved provider to maintain an adequate number of appropriately skilled staff. List evidence that may demonstrate an approved provider is not complying with this responsibility.

I. Quality and Safety Commission reports with Accreditation Standards unmet outcome items:
   - 1.3, 2.3, 3.3 & 4.3 Education and staff development - Management and staff have appropriate knowledge and skills to perform their roles effectively.
   - 2.4 Clinical care - Care recipients receive appropriate clinical care.
   - 2.5 Specialised nursing care needs - Care recipients’ specialised nursing care needs are identified and met by appropriately qualified nursing staff.
   - 4.4 Living environment - Management of the residential care service is actively working to provide a safe and comfortable environment consistent with care recipients’ care needs.
II. Quality and Safety Commission reports with Home Care Standards unmet outcome items:
   o 1.6 Risk management - The service provider is actively working to identify and address potential risk, to ensure the safety of service users, staff and the organisation.
   o 1.7 Human resource management - The service provider manages human resources to ensure that adequate numbers of appropriately skilled and trained staff/volunteers are available for the safe delivery of care and services to service users.
   o 1.8 Physical resources - The service provider manages physical resources to ensure the safe delivery of care and services to service users and organisation personnel.

III. Financial statements reflect that the approved provider's wage expense is below the industry average for the service's care level.

IV. Observations made by department officers while conducted site visits, e.g. ACFI review officers.

Section 56-1
What type of care recipient does paragraph 56-1(a) relate to?
Care recipient who is NOT a continuing care recipient – that is a care recipient who first entered a residential care service on or after 1 July 2014.

What does paragraph 56-1(a) mean?
An approved provider cannot charge extra for the provision of the care and services than the amount permitted. An approved provider must comply with the other rules relating to resident fees. An approved provider must comply with the requirements of Part 3A.2 in relation to any accommodation payment or accommodation contribution.

What type of care recipient does paragraph 56-1(b) relate to?
Continuing care recipient - the first time the care recipient entered a residential care service is before 1 July 2014.

Note: People who receive flexible care through a multi-purpose service, in a residential setting have also 'entered a residential care service' under the Aged Care Act.

What does paragraph 56-1(b) mean?
Relates to the Aged Care (Transitional Provisions) Act and the Aged Care Act. The approved provider cannot charge additional fees for provision of the care and services than amount permitted under the Aged Care (Transitional Provisions) Act. The approved provider complies with the other rules relating to resident fees under the Aged Care (Transitional Provisions) Act comply with Transitional Act in relation to accommodation bonds and the Aged Care Act in relation to accommodation charge.

What does paragraph 56-1(d) relate to?
Relates to booking fees for respite care and links an approved provider's responsibilities to the Fees and Payments Principles.
What is security of tenure in a residential care service?
Security of tenure is intended to provide aged care residents with high levels of certainty regarding their allocated place in the residential care service.

What does paragraph 56-1(f) mean?
Provides for a care recipient's security of tenure – a concept that is further explained in the User Rights Principles.

Why would the Act offer security of tenure provisions?
The security of tenure provisions link directly to the Act's objects and to broader approved provider responsibilities. Aside from being a responsibility of approved providers in the User Rights Principles, the security of tenure provisions also promote the responsibility of an approved provider to provide care and services consistently with any rights and responsibilities of care recipients that are specified in the User Rights Principles. The security of tenure provisions uphold the right of care recipients, as expressed in the User Rights Principles, to a safe, secure and homelike environment. Security of tenure is one of the many provisions in the Act that protects a care recipient. A care recipient cannot be removed from a service without suitable alternative accommodation/care being identified. A service can only close (one of the circumstances in which a service can ask a care recipient to leave) after suitable alternative accommodation arrangements have been made.

Identify the Act objects that link directly to the responsibilities of approved providers of residential care outlined in section 6 of the User Rights Principles.
s2-1(c) to protect the health and well-being of the recipients of aged care services.
s2-1(h) to help those recipients to enjoy the same rights as all other people in Australia – e.g. security of tenure in regards to care recipient's room.

What does paragraph 56-1(i) link to?
Links to Division 62
Division 62 outlines an approved provider's responsibilities relating to protection of personal information relating to a person to whom the approved provider provides aged care.

What does paragraph 56-1(j) tell you?
Links to section 56-4, which outlines the actions an approved provider must take to provide complaints resolution mechanisms.

What does paragraph 56-1(k) tell you?
Allows care recipients to have their advocates to have access to the service specified in the User Rights Principles.
Activity - Charter of care recipients' rights and responsibilities – residential care

1. Do any of the rights or responsibilities seem unreasonable to you? If so, explain why it is unreasonable.

2. Are there any care recipients' rights that an approved provider may struggle to provide? If so, explain your rationale.

A care recipient health needs may impact the approved provider's ability to deliver against the responsibilities. An approved provider may also need to manage the expectation from the care recipient's relatives. Rights may include:

(1) to personal privacy;
(2) to live in a safe, secure and homelike environment, and to move freely both within and outside the residential care service without undue restriction;
(3) to continue his or her cultural and religious practices, and to keep the language of his or her choice, without discrimination;
(4) to select and maintain social and personal relationships with anyone else without fear, criticism or restriction;
(5) to freedom of speech;
(6) to maintain his or her personal independence;
(7) to accept personal responsibility for his or her own actions and choices, even though these may involve an element of risk, because the care recipient has the right to accept the risk and not to have the risk used as a ground for preventing or restricting his or her actions and choices;
(8) to maintain control over, and to continue making decisions about, the personal aspects of his or her daily life, financial affairs and possessions;
(9) to be involved in the activities, associations and friendships of his or her choice, both within and outside the residential care service;
(10) to have access to services and activities available generally in the community;
(11) to be consulted on, and to choose to have input into, decisions about the living arrangements of the residential care service;
(12) to have access to information about his or her rights, care, accommodation and any other information that relates to the care recipient personally;
(13) to complain and to take action to resolve disputes;

3. Two care recipients residing in the same service form a consensual intimate relationship. The service receives a request, from a relative of one of the care recipient's, to put strategies in place to discourage the relationship.

Based on care recipients' rights what does the approved provider need to consider? Care recipients' rights that require consideration include:

(a) to full and effective use of his or her personal, civil, legal and consumer rights
(d) - to be treated with dignity and respect, and to live without exploitation, abuse or neglect
(g) - to live in a safe, secure and homelike environment, and to move freely both within and outside
the residential care service without undue restriction
(h) - to be treated and accepted as an individual, and to have his or her individual preferences
taken into account and treated with respect
(i) - to select and maintain social and personal relationships with anyone else without fear, criticism or restriction
(m) - to accept personal responsibility for his or her own actions and choices, even though these may
involve an element of risk, because the care recipient has the right to accept the risk and not to have
the risk used as a ground for preventing or restricting his or her actions and choices
(n) - to maintain control over, and to continue making decisions about, the personal aspects of
his or her daily life, financial affairs and possessions
(o) - to be involved in the activities, associations and friendships of his or her choice, both within
and outside the residential care service.

Section 56-2
What does paragraph 56-2(a) tell you?
Answer: Approved providers cannot charge a care recipient an entry/commencement fee for providing
home care.
Is security of tenure mandatory?
Yes - Based on the word 'must' security of tenure is mandatory.

Activity - Charter of care recipients' rights and responsibilities – home care

1. How does the Charter of care recipients' rights in home care differ to the Charter of care recipients'
   rights in residential care?
   Both Charters cover the same fundamental rights, however home care also covers consumer
direct care and services.

Section 56-3
What does paragraph 56-3(f) tell you?
Security of tenure applies to a care recipient's place in flexible care and links to the User Rights
Principles.
What does paragraph 56-3(g) link to?
Links the approved provider's responsibilities to the Fees and Payments Principles in regards to
offering to enter into an agreement with care recipients and entering into an agreement if the care
recipient wishes.
Is it mandatory for an approved provider to have a complaint resolution mechanism available to care
recipients and their relatives the responsibility?
Yes based on the word 'must' in paragraph 56-4(1)

Section 59-1
Explain what section 59-1 covers.

Requirement for Resident agreements, including the minimum information that is required to be included.
List Commonwealth laws that the approved provider must ensure that the resident agreement complies with.
Privacy Act 1988
Racial Discrimination Act 1975
Age Discrimination Act 2004
Australian Human Rights Commission Act 1986
Disability Discrimination Act 1992
Sex Discrimination Act 1984

Section 61-1
List what subsection 61-1(1) covers.

Lists the mandatory minimum content to be included in a home care agreement.
Covers permanent and temporary home care, fees, security of tenure, complaints resolution mechanisms, care recipient responsibilities.

Records Principles
1. List two records that an approved provider must keep relating to care recipients. An approved provider must keep the following kinds of records:
   (a) assessments of care recipients;
   (b) appraisal and reappraisal records for care recipients in the form of Answer Appraisal Packs, including:
      (i) assessment tools from the Assessment Pack; and
      (ii) sources of evidence mentioned in the Answer Appraisal Pack;
   (c) copies of applications for classification for care recipients that are not transmitted to the Secretary in electronic form;
   (d) individual care plans for care recipients;
   (e) medical records, progress notes and other clinical records of care recipients;
   (f) schedules of fees and charges (including retention amounts relating to accommodation bonds) for previous and current care recipients;
   (g) agreements between care recipients and the approved provider;
   (h) accounts of care recipients;
   (i) records relating to the approved provider meeting prudential requirements;
(j) records relating to the payment and repayment of refundable deposits, accommodation bonds and entry contributions;

(k) records relating to care recipients’ entry, discharge and leave arrangements, including death certificates where appropriate;

(l) records relating to a determination that a care recipient is a care recipient with financial hardship;

(m) records of the amount of daily accommodation payments, daily accommodation contribution and accommodation charge paid or payable to the approved provider by care recipients;

(n) records of the amount of accommodation charge refunded by the approved provider in relation to care recipients who paid an accommodation charge for a period during which they were charge exempt residents;

(o) in relation to a continuing residential care recipient to whom the approved provider starts to provide residential care through a residential care service on or after 1 July 2014—a record of whether the care recipient made a written choice to be covered by Chapters 3 and 3A of the Act in relation to the service;

(p) in relation to a continuing home care recipient to whom the approved provider starts to provide home care through a home care service on or after 1 July 2014—a record of whether the care recipient made a written choice to be covered by Chapters 3 and 3A of the Act in relation to the service;

(q) in relation to a continuing flexible care recipient to whom the approved provider starts to provide flexible care through a flexible care service on or after 1 July 2014—a record of whether the care recipient made a written choice to be covered by Chapters 3 and 3A of the Act in relation to the service;

(r) up-to-date records of:

(i) the name and contact details of at least one representative of each care recipient, according to information given to the approved provider by the care recipient or by the representative; and

(ii) the name and contact details of any other representative of a care recipient, according to information given to the approved provider by the care recipient or by the representative;

(s) copies of notices given under section 21E of the User Rights Principles 2014;

(t) records relating to the payment of the care recipient portion or transfer portion of care recipients’ unspent home care amounts under section 21F of the User Rights Principles 2014;

(u) copies of notices of published exit amounts given under section 21J of the User Rights Principles 2014.

2. In addition to the records outlined in section 7 of the Records Principles what other records must an approved provider keep under the Records Principles?

Section 8 - All incidents involving allegations or suspicions of reportable assaults Section 9 - Police certificate requirements for staff and volunteers

3. After reporting an allegation of a reportable assault to the department an approved provider destroys the paperwork relating to the incident. Has the approved provider complied with its responsibilities under the Records Principles? Please explain.
No – Subsection 8(1) of the Record Principles states – An approved provider must keep consolidated records of all incidents involving allegations or suspicions of reportable assaults.

4. How long is an approved provider who ceases to provide permanent care to a care recipient required to maintain the records mentioned in section 7 of the Records Principles?

Section 11 of the Records Principles specifies the types of records that must be retained and subsection 89-1(2) of the Act states the timeframes – 3 years after the 30 June of the year in which provision of the care ceased.

- Where a care recipient is transferred to another approved provider under section 16-11 of the Act the records outlined in section 16-11 must be transferred.
- Where a person has ceased to be an approved provider and care recipients have NOT been transferred to another approved provider records relating to the care provided by the former approved provider must be retained for 3 years after the person ceased to be an approved provider (s 89-1).

List reasonable steps that an approved provider may take to ensure its key personnel are not disqualified individuals.

Undertake a police check

Conduct a 'Banned and disqualified' search through ASIC – will identify a person who has been disqualified from involvement in the management of a corporation

Conduct referee checks

Consider pre-medical employment examination

Internal process require employees to inform their employer of changes in their personal circumstances

Section 63-2

Who does this responsibility apply to?

The Minister

What report does section 63-2 relate to?

Report on the operation of the Aged Care Act 1997 (ROACA)
Identify the non-compliance

Scenario 1

You receive a Quality and Safety Commission Review audit report for residential service, which states that the service met 39 out of 44 expected outcomes of the Accreditation Standards. The evidence provided by the Quality and Safety Commission shows that the approved provider has not met Standard 1.7, Standard 2.3, 2.8, 2.11 and 2.12. The evidence relates to the care provided to two care recipients who receive Commonwealth subsidy for their care.

Does the information show non-compliance?

Yes, as the provider did not meet all 44 expected outcomes of the Accreditation Standards

What is the section of the Act that the approved provider has not complied with? Paragraph 54-1(d) links to Accreditation Standards (Accreditation Standards relate to residential care).

The number of care recipients does not determine if the approved provider is complying or not complying with its responsibilities under the Act.

Scenario 2

You receive a Quality and Safety Commission assessment contact report for a residential service. The report states that the service did not meet expected outcomes 2.4 and 2.7.

Does the information indicate non-compliance?

Yes – Accreditation Standards outcomes 2.4 and 2.7 not met

If you identify non-compliance, what section of the Act has the approved provider not complied with?

Paragraph 54-1(d) links to Accreditation Standards (Accreditation Standards relate to residential care)

Scenario 3

You receive a Quality and Safety Commission review audit decision, a Quality and Safety Commission audit report and Quality and Safety Commission assessment contact report for a residential service. The Quality and Safety Commission reports include the following statements:

- "Care recipients and representatives reported dissatisfaction with the responsiveness of staff and adequacy of care."
- "No registered nurse was on duty for five consecutive nights."
- "Management were unable to demonstrate care recipients receive care appropriate to their needs and preferences"
- "Four of 10 care recipients and representatives stated they are not satisfied with the clinical care provided by staff."
- "Ten care recipients did not have care plans."
- "Care recipients’ continence is not being managed effectively."
- "Staff advised they are unable to consistently provide the care according to the care plan, and four of 10 care recipients and representatives reported they are not satisfied with the assistance staff provide to manage care recipients’ continence."

Does the information indicate non-compliance?

Yes, Standard 1: Management systems, staff and organisational development - Item 1.6 and Standard 2: Health and personal care - Item 2.4 & Item 2.12
If you identify non-compliance, identify the quotes that support non-compliance and document the responsibility under the Act that the approved provider not complied with?

Paragraph 54-1(d) links to Accreditation Standards

Scenario 4

An Aged Care Funding Instrument (ACFI) review officer conducted an ACFI review visit to assess the accuracy of appraised level of care for ten care recipients at a service. The review officer identified four instances where the provider could not produce the required records to support the subsidy claims.

Does the information show non-compliance?

Yes approved provider could not produce documents to allow proper verification for claiming subsidy.

If you identify non-compliance, what section of the Act has the approved provider not complied with?

Paragraph 63-1(1)(a) of the Act to comply with subparagraph 88-1(1)(a)(i).

Scenario 5

An approved provider, who commenced operating their service five (5) years ago, supplied full bank statements for their refundable deposit account and partial working (operational) account bank statements. A review of the statements by a National Aged Care Compliance Program officer identified the following abnormalities:

- The refundable accommodation deposit (RAD) register notes:
  - care recipient Mr Smith had an outstanding RAD payment of $100,000
  - Mr Smith’s payment was due in December 2016
  - no other outstanding accommodation deposits.
- On 5 January 2017, $103,020 was deposited into the working (operational) account.
- On 5 January 2017, the refundable accommodation deposit register shows Mr Smith paid $100,000.
- There were no deposit(s) made into the refundable deposit account during January 2017.
- There have been no transfers from the working (operational) account to the refundable deposit account since November 2016.
- Over a period of time, the $100,000 deposited into working (operational) account was used to pay operational expenses.

Does the information show non-compliance?

Yes use of refundable accommodation deposits (RADs) for non-permitted uses.

Note: The permitted uses allow approved providers to use refundable accommodation deposits for operational losses in the first 12 months of a service operating.

If you identify non-compliance, what section of the Act has the approved provider not complied with?

Paragraph 56-1(ga) subsection 52N-1(1) in Part 3A.3 of the Act - Permitted uses of the refundable deposits and accommodation bonds.