Catholic Health Australia – Rules Stage 3 Release Submission

March 2025

Catholic Health Australia
www.cha.org.au

Catholic Health Australia (CHA) is Australia's largest non-government grouping of health, community, and aged care services. CHA Members provide 20 per cent of home care provision, in addition to 12 per cent of all aged care facilities across Australia.

Our members account for over 15 per cent of hospital-based healthcare in Australia and operate hospitals in each Australian state and in the Australian Capital Territory, providing about 30 per cent of private hospital care and 5 per cent of public hospital care in addition to extensive community and residential aged care.

CHA not-for-profit providers are a dedicated voice for the disadvantaged which advocates for an equitable, compassionate, best practice and secure health system that is person-centred in its delivery of care.

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Executive summary

Catholic Health Australia (CHA) is Australia's largest non-government grouping of health, community, and aged care services accounting for approximately 12 per cent of aged care facilities across Australia, in addition to around 20 per cent of care provision in the home. Catholic aged care providers have a vital interest in working with the Australian Government to ensure the sustainable provision of aged care and support services for older Australians meet community expectations of safe and quality of care.

CHA appreciates the opportunity to provide input into Stage 3 of the *Aged Care Act (2024)* Rules. We look forward to working with the Department during the consultation process to ensure the Rules on provider obligations achieves its intended outcomes. Our goal is to ensure it fully supports a high-quality and safe aged care system for all Australians irrespective of their wealth or geography.

Overall CHA is supportive of the intent and purpose of the Rules in setting out the reporting obligations for aged care providers. CHA appreciates the work undertaken by the Department of Health and Aged Care to address provider obligations, the Strengthened Quality Standards; and workforce requirements. We have made suggestions in response to the Department's consultation questions as to how CHA and its members would like to be communicated with.

However, CHA and its members are concerned about the additional administrative burdens imposed on the sector due to demanding reporting requirements and, at times, duplicative processes, and unintended consequences of possible attrition for the aged care and volunteer workforce in attempting to meet these requirements. This submission details options to support a cohesive implementation of these reporting requirements while avoiding unintended consequences to the sector.

Key observations and issues related to this release of the Rules articulated in our submission include:

1. **Reporting obligations:** Although the Rules mostly reflect existing reporting requirements, some new obligations seem duplicative and add administrative burden. Given the implementation timeframes, CHA and its members are concerned about the feasibility of meeting all obligations by 1 July 2025.
2. **Aged care workforce**: Significant change management is needed to ensure providers comply with the Rules by 1 July 2025. All aged care workforce members must be trained and upskilled to understand their reporting roles, posing a risk to care provision due to the heavy administrative burden.

Our list of recommendations

CHA makes the following recommendations to the Department for amendments to the draft Rules on provider obligations and workforce requirements:

Recommendation 1: As part of the implementation of the Rules:

a. Ensure that the Commission clearly communicates key changes with the CEO and the key personnel of the organisation.

b. Provide peak bodies (such as CHA) with key communication in parallel or early so that these groups are able to provide feedback on these materials, reinforce the Department's messaging, and effectively support members to implement the required changes.

c. Ensure that changes to reporting requirements are advised in the Government Provider Managed System (GPMS) early to ensure that providers are able to meet the requirements before the commencement of the relevant reporting period.

Recommendation 2: In the long-term, ensure that the requirements for reportable incidents are aligned across the health, aged and disability sectors. Additionally, ensure that incident management system(s) used in these sectors are interoperable.

Recommendation 3:

a. Clearly define cognitive impairment to enable a consistent interpretation of Section 166-520(2A).

b. Clearly articulate how Section 166-520(2A) (a) works with Section 166-520(2A)(b) regarding how cognitive impairment should be considered in relation to reportable incidents.

Recommendation 4: Clarify to whom the whistleblowing provisions apply, particularly with reference to individuals who disclose information.

Recommendation 5: Clarify in the Rules how providers are to provide procedural fairness to the subject of a complaint where the complainant has requested that the individual who is the subject of the complaint is not notified.

Recommendation 6: Include a process for identifying and managing serial complainants who make multiple complaints in bad faith or which are vexatious. The process should enable complaints management processes to be removed, with a simple reporting process to the Commission to replace it.

Recommendation 7:

a. The Commission to provide guidance as to whether adding whistleblower protections from the draft Rules to existing whistleblower policies and systems is acceptable, for providers' administrative efficiency, instead of creating additional policies and systems.

b. The Commission to also clarify whether an external disclosure recipient would satisfy the requirements of the draft Rules and if not, the draft Rules should be amended as this approach is appropriate and affords appropriate privacy protection.

Recommendation 8: Remove Rules 166-210 to 220 (inclusive) in the draft Rules as these issues are covered by current SIRS reporting requirements and would be an unreasonable administrative burden on aged care providers, without benefit to residents.

Recommendation 9:

a. Ensure the reporting requirements of the Quarterly Financial Report aligns with other policy areas, like care minute targets, so the data is fit for purpose and easily analysed.
b. Incorporate a comprehensive definition and example use case(s) of the QFR in supporting guidance material to support the implementation of the new Standards and adherence to the reporting requirements outlined in S166-340.

Recommendation 10: The Commission should not actively engage in monitoring compliance of aged care providers in relation to reporting requirements in the draft Rules and new Act for 12 months, i.e. until 1 July 2026, to enable providers to develop and implement ICT systems with appropriate change management and training.

Recommendation 11:

a. Review the Government Provider Management System (GPMS) and identify avenues to increase interoperability of GPMS with registered provider systems and enable streamlined reporting of changes to responsible persons.
b. Incorporate specific response timeframes, in which the Commission is required to seek clarification and/or provide outcomes to the provider, as part of the finalised supporting guidelines or Rules.

Recommendation 12: Incorporate a comprehensive definition for whistleblowing complaints to distinguish between other complaints and whistleblowing complaints, and mitigate the risk of unintended consequences on the aged care workforce.

Recommendation 13: Incorporate greater flexibility around the applicability of requirements relating to the informing and training of aged care workers regarding providers' incident management system, and providers' complaints and feedback management systems to mitigate unintended consequences of workforce attrition.

Recommendation 14: Clarify expectations around the obligation of the provider and the aged care workforce to meet the costs associated with the screening process.

Recommendation 15: Ensure that the requirements of aged care workers as set out in S152-20 are aligned with the requirements as set out in the Aged Care Worker Screening Check.

Recommendation 16: Design and implement a National Skills and Capability Framework & Matrix to establish a basis for workforce planning across health, aged and disability care sectors.

Submission overview

CHA is supportive of there being appropriate Rules for Provider obligations; on the strengthened Quality Standards; and on appropriate Rules for the aged care workforce.

Communication

The consultation paper asks where providers think they will need the most guidance and support to implement the new provider obligations; what types of guidance and support would be the most useful; and how providers would like it communicated.

CHA's members would value communication that is clear about what has to happen and by when and for this to be shared with the CEO and the key personnel of the organisation. There is an opportunity for the Rules to clearly articulate the roles and responsibilities of various stakeholders in relation to specific reporting agendas. This information should be clearly articulated in supporting guidance materials developed by the Department and/or the Commission. Importantly, these materials need to be consistent with the language and intent articulated in the Aged Care Act (2025). For example, future communication materials could include supporting guidance documents outlining the key changes, or a checklist of key reports needing to be submitted to the relevant agency (i.e., the System Governor, the Aged Care Quality and Safety Commission).

CHA would like to receive communication materials in parallel or as reasonably early as possible for review, so that we can reinforce key messages and effectively support our members with the extensive change experienced by the sector.

In addition, changes in the Government Provider Managed System (GPMS) should be advised early so that providers can meet the requirements before the relevant reporting period commences.

Recommendation 1: As part of the implementation of the Rules:

a. Ensure that the Commission clearly communicates key changes with the CEO and the key personnel of the organisation.
b. Provide peak bodies (such as CHA) with key communication in parallel or early so that these groups are able to provide feedback on these materials, reinforce the Department's messaging, and effectively support members to implement the required changes.
c. Changes to reporting requirements must be advised in the Government Provider Managed System (GPMS) early to ensure that providers are able to meet the requirements before the commencement of the relevant reporting period.

Section 1: Provider Obligations and reporting requirements

Incident Management

CHA and its members are supportive of providers being required to have a robust incident management system to enable greater protections for older people. However, the details of these provisions pose significant implications for implementation. This is particularly the case for residents that are receiving more than one Commonwealth funded service, such as aged care and NDIS. It is the understanding of CHA and its members that reportable incidents for such residents will need to be documented at least twice: once in the Incident Management System (IMS) managed by the Commission, and once the NDIS Commission Portal. The information about reportable incidents must be separately entered into each system as there is no known interoperability between each system. Additionally, neither system permits the uploading of information directly from the providers' own system.

It is the experience of CHA and its members that aged care workers are required to enter the same information up to three separate times (i.e., to meet the providers' system and recordkeeping obligations, and in both the Commission's IMS and the NDIS Commission Portal) in slightly varied ways. This is an unintended consequence of systems that are not interoperable, as it diverts resources away from provision of quality care. CHA recommends that in the long-term, requirements for reportable incidents are aligned across the care sectors,[1] and the incident management system(s) itself are interoperable in nature. This should be considered as part of the Government's long-term agenda to ensure harmonisation of regulation across the care sectors, exemplified by the new aged care regulatory model.[2] Other specific considerations relating to reportable incidents are outlined below.

Recommendation 2: In the long-term, ensure that the requirements for reportable incidents are aligned across the health, aged and disability sectors. Additionally, ensure that incident management system(s) used in these sectors are interoperable.

Reportable Incidents

CHA and its members welcome the new wording of the definition of neglect for clarity and the appropriate characterisation of neglect as set out in S16-10 (11) within context of reportable incidents. It is important that this definition is consistently applied by the Commission. However, more clarity is needed regarding the requirements for assessing psychological or physical injuries for older people with cognitive impairment as outlined below.

Reference to cognitive impairment in assessment of psychological or physical injuries

The wording in clauses 166-520 of the draft Rules should be made clearer so that appropriate consideration of an individual's cognitive impairment can be given in assessing whether there

[1] As set out in the Government's response to Recommendation 92 – 94 in the final report of the Royal Commission into Aged Care Quality and Safety.
[2] Department of Health and Aged Care (2024). Accessed at: https://www.health.gov.au/our-work/new-model-for-regulating-aged-care

has been a psychological or physical injury affecting the individual. CHA recommends that a definition is added to this section of the draft Rules, or that a reference is made to an appropriate section of the Rules, to ensure consistent interpretation of the provider obligation around consideration of cognitive impairment, as outlined in S166-520.

CHA understands that the intent of S166-520 (2A)(a) refers to cognitive impairment and the consequent lack of sensitivity of the victim to the injury should not lessen the fact of injury. It is the understanding of CHA and its members that the reporting obligation in this context refers to the need for all reportable incidents to be based on the fact of injury/discomfort, not the individual's subjective perception of it. Subsequently, S166-520 (2A)(b) refers to the fact that in some instances, the cognitive impairment of an individual may itself contribute to the physical or psychological injury and/or discomfort warranting a reportable incident, and therefore should be taken into account. However, without a clear articulation of how these provisions work together, it is challenging for providers to distinguish between circumstances necessitating the implementation of S166-520 (2A)(a) compared to S166-520 (2A)(b). This should be clearly articulated in the Rules.

Recommendation 3:

a. Clearly define cognitive impairment to enable a consistent interpretation of Section 166-520(2A).
b. Clearly articulate how Section 166-520(2A) (a) works with Section 166-520(2A)(b) regarding how cognitive impairment should be considered in relation to reportable incidents.

Complaints Management

CHA and its members support a requirement for providers to have robust complaints and feedback management systems in place to enhance continuous improvements in service provision informed by older peoples' experiences. However, CHA members are concerned about certain provisions as drafted in the Rules, including: the scope of who the whistleblowing provisions apply to in relation to individuals; how providers should provide procedural fairness to individuals involved in a complaints process where the individual disclosing information has requested that the subject of the complaint is not notified; and the process for identifying and managing serial complainants who make multiple complaints in bad faith or which are vexatious. In addition, there are a range of implementation challenges relating to the complaints management requirements which will take time to resolve.

Applicability of whistleblowing complaints in relation to individuals

The language of the drafted whistleblowing provisions creates uncertainty regarding to whom these provisions apply. Under Section 547 of the Act, an individual (referred to as 'the discloser') is eligible for protection when they disclose information, provided that they have "reasonable grounds" to suspect that the information reveals a potential violation of the Act by an aged care entity. While neither the Act nor the draft Rules define 'individual', the definition of an 'entity' is outlined in Section 7 of the Act and includes an individual. Based on the language in the Rules, 'individual' often refers to an individual accessing funded aged care

services.[3] Therefore, it is unclear as to which 'individual' these whistleblowing provisions would apply. For example, these provisions could apply to only the provider, the provider and individuals accessing funded aged care who were involved, or the provider and/or any individual/entity. CHA recommends that further clarification is provided regarding the intended interpretation of these concepts as referred to in Section 547 of the Act as it impacts the scope of the whistleblowing requirements.

Recommendation 4: Clarify to whom the whistleblowing provisions apply, particularly with reference to individuals who disclose information.

Applicability of procedural fairness

It is unclear how providers are expected to provide procedural fairness to individuals involved in a complaints process where the individual disclosing information has requested that the subject of the complaint is not notified.

Section 165-15 (1)(m) of the draft Rules requires the provider to afford procedural fairness to the person against whom the complaint is made or who is the subject of the feedback. As such, it is unclear whether the provider should advise that they are required to afford procedural fairness to the subject of the complaint in circumstances where the complainant refuses for that person to be notified. It is also unclear whether the provider is able to decline investigating the complaint as they are unable to afford procedural fairness to the person.

CHA believes that this approach may be inconsistent with other areas of the Act to ensure appropriate management of complaints and feedback. In comparison, there does not appear to be a similar requirement under the whistleblowing requirements. This further creates uncertainty around the applicability of procedural fairness in managing complaints and feedback.

Recommendation 5: Clarify in the Rules how providers are to provide procedural fairness to the subject of a complaint where the complainant has requested that the individual who is the subject of the complaint is not notified.

Serial complainants

Finally, the complaints requirements are very detailed and include many requirements, however serial complainants do not seem to be addressed.

[3] This is also the case with the revised Strengthened Quality Standards (February 2025), as noted in the supporting guidance document.

Case Study

One member faced a situation where a complainant lodged 264 written complaints against a home within a three-month period. These complaints were in addition to numerous verbal complaints and complaints made to the Commissioner. The impact on the home was severe: agency providers refused to supply workers, several employees resigned, and a psychological assessment revealed that all staff who had interacted with the complainant were psychologically affected. Additionally, several GPs, who were also subjects of the complaints, resigned. The management even considered closing the home due to the complainant's impact. However, upon thorough investigation, it was determined that there were no actual issues requiring action to be taken.

CHA recommends that there is a process for dealing with these types of complainants as there is no current process identified in the Rules.

Recommendation 6: Include a process for identifying and managing serial complainants who make multiple complaints in bad faith or which are vexatious. The process should enable complaints management processes to be removed, with a simple reporting process to the Commission to replace it.

Scope of whistleblowing requirements with reference to existing requirements

It is the understanding of CHA and its members that aged care providers must comply with a range of existing whistleblowing laws that may or may not overlap with the whistleblowing requirements set out in Section 165 and Part 5 of the new Act. Existing legislation includes: the Corporations Act whistleblowing requirements, the NDIS whistleblowing requirements, and some bespoke taxation legislation whistleblowing requirements. While CHA believes that a strong whistleblower protection regime is an important inclusion in the Act and the Rules, the detailed whistleblower requirements in the Rules may necessitate providers to have separate whistleblowing policies to ensure adherence to various requirements. There are practical implementation challenges with separate policies, including the administrative burden of implementation, training of workforce, and development of separate systems to manage these policies.

Case study

One CHA member noted that their current whistleblowing policy includes the use of an external whistleblowing disclosure recipient. It is unclear whether an external disclosure recipient is appropriate or reasonable given the scope of the requirements detailed in the Rules.

Recommendation 7:

a. The Commission to provide guidance as to whether adding whistleblower protections from the draft Rules to existing whistleblower policies and systems is acceptable, for providers' administrative efficiency, instead of creating additional policies and systems.
b. The Commission to also clarify whether an external disclosure recipient would satisfy the requirements of the draft Rules and if not, the draft Rules should be amended as this approach is appropriate and affords appropriate privacy protection.

Complaints and feedback reporting

CHA understands that under section 166-210 of the draft Rules, the *complaints and feedback management report* is a report that must be provided on an annual basis covering all complaints and feedback received by the reporting provider during the reporting period (1 July to 30 June) and that it is to be provided to both the Department and the Commission by 30 October each year. The report should include sufficient particulars in relation to each complaint and item of feedback received to respond to the matters listed in subsection 166-210(4).

CHA also understands that in some circumstances, under Section 166-220, the Department or the Commission may request that a similar report be prepared and provided to the Department and the Commission within 14 days (or such longer period as specified). The Department does not anticipate that this request power will be frequently used, and in general a provider will likely already be in discussion with the Department or Commission before such a request is made.

CHA and its members consider that these requirements are extremely burdensome to aged care providers without providing any benefit to aged care recipients. The current provider governance report (also known as provider operations report) appears to be reflected in S166-705 and S166-710, and requires information about complaints to be disclosed. This means that according to the Rules, information relating to complaints would need to be disclosed in the following ways:

- Under the Serious Incident Response Scheme (SIRS), if the complaint is relevant to Priority 1 or Priority 2 incidents;
- As required by the Commissioner and the Complaints Commissioner from time to time;
- Under the requirements of S166-710 as part of the governing body statement requirements;
- Under the requirements of S166-220 as part of the *complaints and feedback management report*.

With reference to the *complaints and feedback management report* (S166-220), providing a report that details what the complaint was; investigations; actions; learnings etc for every complaint received in a year by every residential aged care service would be a significant administrative burden. This would also make the Department involved in operational management of aged care services to a degree that intersects with the Commission's current functions. This approach does not appear to articulate a clear benefit for improvements in service provision for older people. In practice, the sheer volume of reports that would need to be submitted to the Department without any triaging mechanism or process would mean that reports may never be read and/or action taken. This creates the potential risk of older people feeling frustrated that they may not receive official responses to their complaints and/or feedback from an authoritative body, such as the Department. As such, this may contribute to an erosion of trust between older people and governing bodies of the aged care system. CHA recommends that these provisions should be removed from the draft Rules. SIRS requirements and Board responsibilities that include these sorts of issues are sufficient and fit-for-purpose.

Recommendation 8: Remove Rules 166-210 to 220 (inclusive) in the draft Rules as these issues are covered by current SIRS reporting requirements and would be an unreasonable administrative burden on aged care providers, without benefit to residents.

Financial and Prudential Reporting Requirements

CHA has separately provided input into the Exposure Draft (ED) of the new Financial and Prudential Standards (the Standards), which details some of the reporting requirements outlined in this release of the draft Rules (our submission is at **Attachment A**). We expressed serious concerns relating to the scope outlined in the proposed new Liquidity Standard, with extensive unintended consequences noted on investing in property and refurbishments; on retirement villages, independent living units and other entities of the provider; and on the ability of CHA members to invest in our Mission work. The transition timeframe is also far too short and would be extremely hard for many providers' Boards to comply with. CHA is also concerned in the lack of objectivity being used in outlining the requirements to implement and maintain a financial and prudential management system and about the inconsistency in wording, and therefore, potential misinterpretation, between supporting guidance documents about the Investment Standard and the ED of the *Aged Care Financial and Prudential Standards 2025*.

Among CHA's recommendations to address these issues is for the Commission to undertake a more detailed consultation process with leaders in the aged care sector to address identified issues with financial management. Specific outcomes of this process could include co-designed mechanisms for oversight over financial and prudential matters that is balanced with empowering providers in contributing towards the overall financial viability and sustainability of the aged care system.

Given that these issues are outlined at **Attachment A**, CHA will reflect some of the financial and prudential recommendations as they relate to the reporting requirements of the proposed Standards in this submission.

Quarterly Financial Report (QFR)

CHA recommends that the reporting requirements relating to the Quarterly Financial Report are aligned with other policy areas, such as care minute targets, to ensure that the data submitted by providers is fit for purpose and can be readily analysed. It is the understanding of CHA and its members that the Liquidity calculator looks at the current operational costs but not the future costs. For example, if providers take a commercial view towards the provision of care minutes against the funding required, they may have significant cash costs not included in the QFR. This means that these cash costs would not be considered as part of the calculator. Additionally, as stated in CHA's submission on the Standards, CHA recommends that a warning alert is incorporated into the Liquidity calculator to state that: *"Costs are currently above the required level but risk is noted due to lower costs as a result of failure to meet care minute requirements,"* or similar.

Furthermore, a more robust definition of the purpose and scope of the QFR may be useful to mitigate the risk of providers mis-classifying specific assets, and therefore, impacting the outcomes of the Liquidity Calculator. It is the experience of CHA and its members that providers who have made loans to classify these loans as 'financial assets', which is considered as a 'liquid asset' in the QFR. CHA recommends that a comprehensive definition and example use case(s) of the QFR in supporting guidance material would support the

implementation of the new Standards, and in particular, for providers to adhere to the reporting requirements outlined in S166-340.

Recommendation 9:

a. Ensure the reporting requirements of the Quarterly Financial Report align with other policy areas, like care minute targets, so the data is fit for purpose and easily analysed.
b. Incorporate a comprehensive definition and example use case(s) of the QFR in supporting guidance material to support the implementation of the new Standards and adherence to the reporting requirements outlined in S166-340.

Implementation challenges of meeting provider obligations

Funding, ICT and change management implementation considerations

In the main, CHA and its members are concerned about the prescriptiveness of system requirements contained in the draft Rules and the need to have systems and processes in place to meet these requirements by 1 July 2025. It is the understanding of CHA and its members that there are no mechanisms to enable manual workarounds in relation to the reporting requirements outlined in the draft Rules, particularly that of Subdivision D and E in Chapter 5. As these requirements have only been released, with the reporting requirements of the Strengthened Quality Standards yet to be released, system developers continue to comment on the challenges to ensure provider systems are capable of meeting these requirements from 1 July 2025 onwards. For example, CHA members have noted that there is only one software company that is the furthest ahead in software development, yet even this company is not ready to meet the requirements that underpin the new draft Rules.

Additionally, the draft Rules set out specific requirements relating to the ongoing training and upskilling that providers are required to adhere to, so that aged care workers are able to manage these systems (i.e., complaints and feedback, and incidents). CHA and its members are also concerned about the capacity of their current operational teams to meet all the requirements set out in the draft Rules by 1 July 2025. Further detail about these considerations is set out in Section 2.

Case study

Many CHA members state that they require approximately 12 weeks to develop and implement a few modules in response to the requirements as set out in the Rules, but will require 6 – 12 months for all relevant modules to be developed for system implementation. This results in an estimated cost of $1 million for time spent implementing the changes, to onboard consultants to support the implementation, and training of staff to operationalise system changes.

Accordingly, CHA recommends the Commission does not actively engage in monitoring compliance of aged care providers in relation to reporting requirements in the draft Rules and new Act for 12 months, i.e. until 1 July 2026, to enable providers to develop and implement ICT systems with appropriate change management and training.

Recommendation 10:

a. The Commission should not actively engage in monitoring compliance of aged care providers in relation to reporting requirements in the draft Rules and new Act for 12 months, i.e. until 1 July 2026, to enable providers to develop and implement ICT systems with appropriate change management and training.
b. If the above is not considered, then ensure that the reporting requirements are considered for staged implementation. As part of this, develop a subset of key reporting obligations that are deemed essential for the implementation of the Act, for providers to implement by 1 July 2025, with the remaining requirements implemented in subsequent stages.

Reporting concerning Responsible Persons

It is the understanding of CHA and its members that there may be some duplication in the reporting obligations relating to responsible persons (previously known as “key personnel”). At present, it is the Commission that receives notification about responsible persons appointments and changes within 14 days. Based on S156-1140 of the Rules, similar information about the profile of a responsible person, such as aged care or NDIS clearance decisions, is also to be recorded in the Government Provider Management System (GPMS). This would exacerbate the existing administrative burden imposed on providers to export data from their own systems to GPMS to meet these reporting obligations.

Case study

One CHA member notes that it requires approximately 20 minutes to complete each form (as part of the mandatory reporting requirements regarding responsible persons). As the CHA member is a large provider operating services in more than 40 locations, it is very time consuming to complete forms where there are changes in responsible persons. This administrative burden would also allocate resources away from other operational areas that support the provision of quality, holistic care for residents.

It is the experience of CHA and its members that there is little to no visibility as to how this information is being used once it is received by the Commission. As these forms and records contain personal information of the providers’ responsible persons, there is uncertainty around how the provider is expected to manage privacy concerns of their employees.

Case study

One CHA member notes that the Commission occasionally seeks clarification on a document that had been submitted 4-5 months prior.

CHA recommends that specific response timeframes for the Commission to respond to updates should be incorporated in the draft Rules or in supporting guidelines to operationalise these reporting obligations in relation to responsible persons.

The current 14-day reporting period is challenging and sets unrealistic expectations for providers to adhere to as it is a manual process. There is an opportunity for GPMS to be integrated into existing providers' systems to ensure that data captured in provider systems can be made readily available on GPMS, without necessitating a manual document filling and uploading process. This would enable providers to better meet the 14-day reporting period.

Recommendation 11:

a. Review the Government Provider Management System (GPMS) and identify avenues to increase interoperability of GPMS with registered provider systems and enable streamlined reporting of changes to responsible persons.
b. Incorporate specific response timeframes, in which the Commission is required to seek clarification and/or provide outcomes to the provider, as part of the finalised supporting guidelines or Rules.

Section 2: Aged Care Workers

This section of the submission articulates the implementation challenges imposed by the proposed aged care worker requirements. As set out in Section 11 (4)(a) of the Act, an aged care worker of a registered provider refers to an individual employed or otherwise engaged (including as a volunteer) by the registered provider to deliver funded aged care services. It is the understanding of CHA and its members that this definition of an 'aged care worker' would include agency workforce as well as volunteers. Implementation considerations of this definition of an 'aged care worker' in the Rules are described below.

Provider obligations to manage aged care workforce

Incident Management

CHA and its members support the incident management provisions outlined in draft Rules S164-20 and S165-35 to strengthen protections to older people receiving care. However, these provisions pose significant implementation challenges as they require ongoing education of the aged care workforce, including contracted entities and volunteers. In a sector managing acute skilled labour shortages, without adequate investment in people focused training and articulation of employee benefits, the sector will continue to struggle to attract and retain quality human resources needed to deliver quality care to older people.

It is the experience of CHA and its members that the agency workforce can regularly change and can be rostered onto shifts at short notice. For example, if a contracted aged care worker fills a last-minute shift, it's challenging to explain the incident management system requirements in a timely manner without compromising care for older people. To mitigate this risk, providers will enter contracts with the agency as opposed to the individual aged care worker. CHA and its members believe that it is reasonable to include details of the incident management system and specific requirements in these contracts. However, it should be the responsibility of the agency to ensure that any agency workers are informed of these requirements prior to commencement of the shift.

Complaints and Feedback Management

Similar to the previous subsection, requirements detailed in S165-20 that intend for aged care workers to be informed and trained about the providers' complaints and feedback management system[4] are challenging to implement. For example, the requirement to provide contracted workers with appropriate training regarding the complaints and feedback management system upon commencement and monthly communications with workers regarding processes for complaints and feedback is challenging to implement in practice. This is due to the dynamic nature of the contracted agency workforce and late notice of rostering changes.

It is the experience of CHA and its members that the distinction between whistleblowing complaints and other complaints is unclear in the drafted Rules. Whilst S165-35 means that an individual can make an election to handle whistleblower disclosures as complaints or feedback, the wording of these provisions relating to whistleblower disclosures, such as "reasonable grounds", creates a degree of uncertainty for interpretation, and leaves significant room for misinterpretation and unintended consequence. For instance, these limitations may hinder a provider in completing a thorough enquiry into the subject matter, which may lead to other decision-making consequences, such as decisions around the retention, performance management, or termination of employees. As providers are obligated to explain these matters to aged care workers, it is important that there is a comprehensive definition being consistently applied to distinguish whistleblowing complaints from other complaints.

Recommendation 12: Incorporate a comprehensive definition for whistleblowing complaints to distinguish between other complaints and whistleblowing complaints, and mitigate the risk of unintended consequences on the aged care workforce.

Barriers to attracting and retaining volunteers in aged care

These challenges, as outlined in previous subsections, are exacerbated for volunteers in aged care. For example, monthly communications about complaints and feedback may risk demotivating volunteers about taking on more volunteering opportunities. This may also result in volunteers raising concerns about the provider being too bureaucratic or that they are infringing on the volunteers' privacy.

There may also be additional administrative burden around the increased volume of training needing to be undertaken by volunteers (i.e., to demonstrate all aged care workers understand the providers' processes and systems for complaints and feedback management), based on the drafted Rules. This is particularly concerning for providers that have larger cohorts of older volunteers, as their digital literacy skills may be insufficient to uptake the required training and upskilling around systems and processes in a timely manner. Given the existing challenges with the attraction and retention of volunteers, there should be greater flexibility in the

Recommendation 13: Incorporate greater flexibility around the applicability of requirements relating to the informing and training of aged care workers regarding providers' incident management system, and providers' complaints and feedback management systems to mitigate unintended consequences of workforce attrition.

[4] Specifically S165-20 (1)(c) and (e)

applicability of these requirements to mitigate the risk of negative impacts on the volunteering workforce.

Worker screening requirements

It is the understanding of CHA and its members that information about aged care workers is required to be recorded in the Government Provider Management System (GPMS). The information required as part of these records includes the following, with respect to the aged care worker screening law of the State or Territory:

- An aged care or NDIS clearance decision
- An aged care or NDIS exclusion decision
- An aged care or NDIS interim bar
- Police certification

Administrative costs of the screening process

Specific scenarios of what information is required to be recorded in the GPMS is set out in S154-1140 (2) and (3). Given the applicability of these scenarios, specific consideration should be given to the costs of obtaining the required information as part of the aged care workers' record. It is the experience of CHA and its members that each provider has its own approach to support their workforce in meeting the compliance requirements. It is important to note that an increased frequency of decisions as part of the screening process will attract fees imposed on the aged care worker. CHA recommends that there is a clear expectation around the responsibility to meet the costs of obtaining these decisions, as part of the screening process. This should be considered as part of the transition process to the new aged care worker screening check.

Recommendation 14: Clarify expectations around the obligation of the provider and the aged care workforce to meet the costs associated with the screening process.

Aged Care Worker Screening Check

Given the intersections between the aged care and disability sectors, CHA welcomes the future national Aged Care Worker Screening Check as an opportunity to streamline and/or consolidate information contained in existing aged care worker records. This could mean that a single background check is accepted in all components of aged care service delivery. Additionally, there is an opportunity for the Commission and System Governor to accept a consolidated background check across the care and support workforce (i.e., aged care, disability, child care). This would reduce the administrative complexities faced by providers (including aged care specialist providers, such as NATSIFACP and CHSP providers) to ensure their workers are compliant with worker screening requirements. For example, CHSP providers that also provide services under Support at Home may be required to conduct and

retain two separate records for an aged care worker. CHA believes that this would be highly duplicative and effort intensive for aged care providers to implement.

Recommendation 15: Ensure that the requirements of aged care workers as set out in S152-20 are aligned with the requirements as set out in the Aged Care Worker Screening Check.

Qualifications and training requirements

As set out in S152-35, aged care workers of registered providers must have appropriate qualifications, skills or experience to provide the funded aged care services that the provider delivers to individuals. Given that S152 of the Act refers to the conditions of provider registration, there is an opportunity for greater clarification around the expectations of what qualifications, skills or experience are considered appropriate. As outlined in the Unleashing the Potential of our Health Workforce report (2024), there is a limited understanding of the scope of practice boundaries and range of skills and capabilities that are relevant to a range of health and aged care contexts. This has contributed towards a limited recognition of the transferrable skills and capabilities of the care workforce, which further hinders workforce flexibility and agility. Care workers are not always able to effectively transfer skills from one care sector to another. This produces inefficiencies when it comes to recruiting and on-boarding new staff, or re-training staff from a different care sector to address existing workforce gaps. CHA recommends that Government look to designing a National Skills and Capability Framework & Matrix, as proposed in the Unleashing the Potential report, to improve understanding of health professional skills and capabilities and establish a basis for workforce planning.[5]

Recommendation 16: Design and implement a National Skills and Capability Framework & Matrix to establish a basis for workforce planning across health, aged and disability care sectors.

[5] More details can be found in CHA's Pre-budget submission 2025-26 on Aged Care policy priorities: https://cha.org.au/pre-budget-submission-2025-26-aged-care-policy/