



Cowell Clarke  
COMMERCIAL LAWYERS

# Aged Care Act 2024

## Compliance Checklist

Version 3

February 25

### ADELAIDE

Level 9, 63 Pirie Street  
Adelaide SA 5000  
T: +61 8 8228 1111

[cowellclarke.com.au](http://cowellclarke.com.au)

*Liability limited by a scheme approved under  
the Professional Standards Legislation*

### SYDNEY

Level 2, 50 Pitt Street  
Sydney NSW 2000  
T: +61 2 8255 6900

# Aged Care Act 2024

## Compliance Checklist

### ***Background and Disclaimer***

The *Aged Care Act 2024* (Cth) (**Act**) will officially commence on 1 July 2025, impacting those who deliver and receive aged care services. The Act replaces the current laws governing the provision of aged care in Australia, and introduces a new system in which providers, workers and other entities in the aged care sector must comply with.

This Compliance Checklist is intended to provide an overview of the different action items which are required to be implemented by those operating within the aged care sector from 1 July 2025. This Compliance Checklist can be used to assist providers in developing an action plan for their legal and operational compliance with the Act.

The material contained in this Compliance Checklist is dependent on the information released as at the date of this Compliance Checklist. Many details surrounding the various obligations are yet to be released to the public or finalised, and will be prescribed further in the Aged Care Rules (**Rules**). Cowell Clarke will continue to update this Compliance Checklist in order to provide the latest information to aged care providers.

This document is for general information only and cannot be relied upon as legal advice. The application of obligations under the Act will depend on the type of provider you are and the services you offer. Do not act on the basis of this document but seek specific advice from your legal adviser.

Cowell Clarke's dedicated Aged Care and Retirement Living team continues to work closely with aged care entities to ensure their best possible outcomes are achieved whilst ensuring compliance.

For further information, please contact our [Aged Care, Retirement Living and Health team](#).

## Compliance Checklist

Topic	No.	Task Description	Completed ✓	Comments
<b>AGED CARE PROVIDERS – GENERAL</b>				
<b>Registration Renewal</b>	1.	Nominate and train the relevant personnel who will have responsibility for renewal of registration.		Existing providers will remain registered under the new Act but will be required to comply with the new renewal requirements.  For example, providers must be invited to renew their registration prior to applying for renewal. Providers cannot apply to renew until this invitation has been received.
	2.	Confirm workflows are in place to ensure relevant personnel are notified once invitation to renew has been issued.		
	3.	Have a process in place to diarise relevant key dates for lodgment of application or renewal.		
	4.	Consider whether delegation of authority matrix needs to be updated and what notifications / approvals are required before application for renewal is submitted.		
	5.	Consider what Board processes or policies need to be updated? Is there sub-committee involvement or training required?		
<b>Governance Requirements</b>	6.	Ensure provider complies with governing body requirements regarding independent and skilled members. This may require an update to their Constitution and associated policies.		Section 157 of the Act sets out governing body independent member requirements as well as required skillsets.
	7.	If applicable, consider whether an exemption from the Commissioner should be obtained for the requirements set out in section 157 of the Act.		Limited providers may seek an exemption from having to comply (see section 159 of the Act).

Topic	No.	Task Description	Completed ✓	Comments
	8.	If the provider is a wholly-owned subsidiary corporation, review Constitution to ensure it complies with the requirements under section 161 of the Act.		For wholly-owned subsidiary corporations.  Providers that are incorporated under the <i>Corporations Act 2001</i> (Cth) and are a wholly-owned subsidiary of a company that is not a registered provider must ensure that its Constitution does not contain a provision authorising a director to act in the good faith in the best interests of the holding company.
	9.	Review internal procedures on governing body reporting requirements.		Under the Act, a registered provider's governing body may be required to report on the provider's compliance over the previous 12 months.
<b>Funding</b>	10.	Review internal policies and practices on charging and retaining fees from recipients.		This will depend on the type of provider you are and the services you offer.  To ensure policies and practices align with changes under the Act.  For example, aged care recipients may now be required to make additional contributions to their care under the new Act. Providers will be required to have processes in place to collect, appropriately document and communicate about these contributions where relevant.
	11.	Review list of services that you provide as a provider and confirm that you remain eligible to receive the relevant subsidies and other funding under the Act.		The price that can be charged for certain services and still receive a subsidy is capped under the Act and Rules.

Topic	No.	Task Description	Completed ✓	Comments
				Home care providers will continue to set their own prices from 1 July 2025, with the new home care caps to apply from 1 July 2026.  Further details TBC in the Rules.
	12.	Review internal policy and process on claiming subsidies and other funding from the Commonwealth.		To ensure the policy is compliant with the relevant processes under the Act, including submission deadlines.
	13.	Review due diligence policies and procedures on assessments regarding recipients' asset and means position.		For example, to ensure compliance with section 305 of the Act on the prohibition of accepting RADs if such payment would leave the value of the recipient's assets less than the minimum permissible asset value.
<b>Subcontracts and Associated Providers</b>	14.	Review and update subcontracting agreements to ensure compliance with the Act.		For providers who subcontract services.  For example:
	15.	Conduct due diligence on associated providers to determine whether they are capable of meeting the provider obligations under the Act.		<ul style="list-style-type: none"> <li>Providers who receive government subsidies must ensure that the price that the recipient pays for a service does not exceed the final efficient price under the Rules. This may have a flow-on effect to the fees under subcontracting agreements.</li> <li>Ensuring compliance with the associated provider provisions and confirming that there is no risk of the registered provider being seen as contracting out of their legal responsibility under the Act.</li> </ul> <p>Further details TBC in the Rules.</p>

Topic	No.	Task Description	Completed ✓	Comments
<b>Complaints and Incidents</b>	16.	Update complaints and feedback management system and distribute to staff, Responsible Persons and care recipients.		<p>Among other things, the review should consider:</p> <ul style="list-style-type: none"> <li>• protections;</li> <li>• confidentiality;</li> <li>• roles and responsibilities;</li> <li>• notification processes;</li> <li>• remediation;</li> <li>• communication; and</li> <li>• reporting requirements</li> </ul>
	17.	Update incident management system and distribute to staff, Responsible Persons and care recipients.		<p>Among other things, the review should consider:</p> <ul style="list-style-type: none"> <li>• objects of the system;</li> <li>• roles and responsibilities;</li> <li>• notification and reporting processes;</li> <li>• investigations;</li> <li>• remediation;</li> <li>• records and data collection; and</li> <li>• communication.</li> </ul>
	18.	Implement a new whistleblower system and policy and distribute to staff, Responsible Persons and care recipients.		<p>The Act introduces protections for persons who make disclosures relating to non-compliance with the Act.</p> <p>Registered providers must comply with anonymity, confidentiality, and non-victimisation requirements. Further, registered providers have</p>

Topic	No.	Task Description	Completed ✓	Comments
				<p>a positive obligation to ensure compliance where disclosures are made to their aged care workers, Responsible Persons or associated providers.</p> <p>Among other things, the policy should address:</p> <ul style="list-style-type: none"> <li>• disclosure processes;</li> <li>• roles and responsibilities;</li> <li>• notification processes;</li> <li>• investigations; and</li> <li>• communication.</li> </ul>
	19.	Provide appropriate training to staff and Responsible Persons on the complaints and feedback management system, incident management system and whistleblower system.		<p>Among other things, this training should cover:</p> <ul style="list-style-type: none"> <li>• how to recognise, respond and report incidents / complaints / disclosures;</li> <li>• roles and responsibilities;</li> <li>• managing relationships and communications; and</li> <li>• proper handling of personal information and data.</li> </ul> <p>Training must be completed on commencement, when there is a change to the system or a person's role, and occur at least annually.</p>

Topic	No.	Task Description	Completed ✓	Comments
<b>Advisory Bodies</b>	20.	Implement or update internal policy and process on advisory body compliance.		Note: Individuals are awarded certain protections for their participation in advisory bodies.
<b>Quality Standards</b>	21.	Update operational policies to align with new Aged Care Quality Standards.		Strengthened Aged Care Quality Standards to be introduced 1 July 2025. Further information to be provided once standards are finalised.
<b>Financial and Prudential Standards</b>	22.	Implement or update internal policy and procedures on the Financial and Prudential Standards.		<p>This will depend on the type of services you offer as a provider.</p> <p>Most aged care providers must now comply with the updated Financial and Prudential Management Standard. Previously, only residential care providers had to comply.</p> <p>Residential care providers (not including government providers) will also need to comply with the updated:</p> <ul style="list-style-type: none"> <li>• Liquidity Standard; and</li> <li>• Investment Standard.</li> </ul> <p>Additional reporting obligations may also apply.</p>
<b>Supporters</b>	23.	<p>Implement or update internal policy on:</p> <ul style="list-style-type: none"> <li>• supporters; and</li> <li>• designated persons.</li> </ul> <p>Implement training of relevant staff on requirements relating to supporters and designated persons.</p>		<p>Under the Act:</p> <ul style="list-style-type: none"> <li>• care recipients will be able to nominate and register a 'supporter' to support them in receiving or communicating information; and</li> <li>• care recipients have the right to access, at any time they choose, a person designated by them or by an appropriate authority.</li> </ul>



Topic	No.	Task Description	Completed ✓	Comments
<b>Responsible Persons</b>	24.	Update Responsible Persons policy and processes to reflect new terminology and requirements. Consider whether any Board or other policies need to be updated to reflect the section 180 duty.		Previously called "key personnel".
	25.	Implement training to ensure Responsible Persons understand their obligations under the Act.		Responsible Persons (excluding persons responsible for nursing management or day-to-day operations) now have a positive duty under section 180 of the Act to conduct due diligence to ensure providers do not engage in conduct that causes adverse effects to health and safety of recipients (as outlined under section 179 of the Act).
	26.	Board and executive team to agree and implement a due diligence framework to ensure that the provider is meeting the section 179 duty.		
<b>Restrictive Practices</b>	27.	Review and update policy on restrictive practices.		Further details TBC in the Rules.
<b>Record keeping</b>	28.	Review and update record keeping policy.		Further details TBC in the Rules.
<b>Privacy</b>	29.	Review and update privacy policy and standard wording in all template contracts.		To ensure compliance with the Act (such as the provision of information to supporters) and the proposed changes to the <i>Privacy Act 1988</i> (Cth).
<b>AGED CARE PROVIDERS - RESIDENTIAL</b>				
<b>Residential Agreements</b>	30.	Prepare new / update Residential Care Agreements and Accommodation Agreements.		For residents entering residential facilities from 1 July 2025.  Existing residents will continue their care under their existing agreements.

Topic	No.	Task Description	Completed ✓	Comments
<b>Higher Everyday Living Agreements</b>	31.	Prepare new Higher Everyday Living Agreements for residents.		Additional Service Fees and Extra Service Fees are being replaced by Higher Everyday Living Fees under the Act.  This change applies to new residents on 1 July 2025 and existing residents on 1 July 2026.
	32.	Prepare policy and procedures on entering into Higher Everyday Living Agreements.		Providers must: <ul style="list-style-type: none"> <li>• give prescribed information to residents before entering into Higher Everyday Living Agreements;</li> <li>• not offer to enter into a Higher Everyday Living Agreement before a resident's start day;</li> <li>• not ask residents to pay a Higher Everyday Living Fee before a resident's start day.</li> </ul>
<b>Refundable Accommodation Deposits (RAD)</b>	33.	Review and update internal policies and practices on RADs. This will also need to be addressed in updated residential agreements.		To align with new requirements under the Act.  For example, providers are now required to deduct a percentage of a resident's RAD (called a retention amount).  Among other things, the review should cover: <ul style="list-style-type: none"> <li>• RAD collection;</li> <li>• permitted uses;</li> <li>• refunds;</li> <li>• retention amounts – limited to 5 years and capped at 2%;</li> <li>• deductions; and</li> </ul>

Topic	No.	Task Description	Completed ✓	Comments
				<ul style="list-style-type: none"> <li>interest.</li> </ul>
<b>Pets</b>	34.	Implement or update internal policy and procedures on pets. Ensure relevant staff have appropriate training on the provider's pet policy and resident rights.		<p>Under the Act, care recipients have the right to opportunities and assistance to stay connected with pets, including through safe visitation or co-habitation where possible.</p> <p>This will ultimately depend on what is appropriate for the residential facility. Further resources and guidance on this topic can be found <a href="#">here</a>.</p>
<b>AGED CARE PROVIDERS – HOME CARE</b>				
<b>Support at Home Agreements</b>	35.	Prepare new Support at Home Agreements / update existing Home Care Agreements.		<p>The new Support at Home program replaces Home Care Packages and Short-Term Restorative Care (Flexible Care) for recipients receiving home care services from 1 July 2025.</p> <p>Existing recipients will be transitioned over to the new Support at Home Program but are protected under "no worse off" provisions.</p> <p>Although the Commonwealth Home Support Program (<b>CHSP</b>) isn't transitioning to this new program until 2027, CHSP providers are still required to comply with the Act.</p> <p>Further details and transitioning support TBC closer to implementation.</p>

Topic	No.	Task Description	Completed ✓	Comments
<b>Care Plan and Budgets</b>	36.	Update internal systems and understanding on creation and management of care plans and individual budgets.		The Act will change the way home care services are funded, regulated and delivered. Further details TBC closer to implementation.
<b>Services List</b>	37.	Update list of inclusions and exclusions for Support at Home services.		Further details TBC closer to implementation.
<b>OPERATORS OF AGED CARE DIGITAL PLATFORMS<sup>1</sup></b>				
<b>Review Information</b>	38.	Review and ensure the prescribed information for each advertised provider is correct and displayed on the platform.		Mandatory information such as provider registration status, registration categories, and banning order history must be displayed. Further details TBC in the Rules.
<b>Notification</b>	39.	Notify Commissioner that you operate the platform.		Applies to Australian trading and financial corporations. Further details TBC in the Rules.
<b>Complaints Management</b>	40.	Implement a complaints management system.		
<b>Incident Management</b>	41.	Implement an incident management system.		
<b>Reporting</b>	42.	Implement a process for keeping and retaining relevant records.		

<sup>1</sup> Broadly, an Aged Care Digital Platform is an online service (such as a website or system) that facilitates the delivery of aged care by connecting people with aged care providers for a fee. For more information on what an “aged care digital platform” is and whether you might be caught, see our Insight [here](#).