



FACT SHEET: WHAT DOES THE AGED CARE COMMISSIONER DO?

Aged Care Commissioner

The Commissioner holds a statutory appointment and is independent of the Department of Health and Ageing's Aged Care Complaints Investigation Scheme and the Aged Care Standards and Accreditation Agency.

The Commissioner's functions are set out in Part 6 of the *Aged Care Act 1997*, section 95A-1 (2) as follows:

- (a) *to examine decisions that are made by the Secretary under the Investigation Principles and are identified by those Principles as being examinable by the Aged Care Commissioner, and make recommendations to the Secretary arising from the examination;*
- (b) *to examine complaints made to the Aged Care Commissioner about the Secretary's processes for handling matters under the Investigation Principles, and make recommendations to the Secretary arising from the examination;*
- (c) *to examine on the Commissioner's own initiative, the Secretary's processes for handling matters under the Investigation Principles and make recommendations to the Secretary arising from the examination;*
- (d) *to examine complaints made to the Aged Care Commissioner about:*
 - (i) *the conduct of and *accreditation body relating to its responsibilities under the Accreditation Grant Principles; or*
 - (ii) *the conduct of a person carrying out an audit, or making a support contact, under those Principles;**(but not a complaint about the merits of a decision under those Principles) and make recommendations to the accreditation body concerned arising from the examination.*
- (e) *to examine, on the Aged Care Commissioner's own initiative:*
 - (i) *the conduct of an accreditation body relating to its responsibilities under the Accreditation grant Principles; and*
 - (ii) *the conduct of persons carrying our audits, or making support contacts, under those Principles;**and make recommendations to the accreditation body concerned arising from the examination.*
- (f) *to advise the Minister, at the Minister's request, about matters relating to any of paragraphs (a), (b), (c), (d) and (e);*
- (g) *the functions (if any) specified in the Investigation Principles.*

Examinable decisions

An aggrieved person or relevant provider who is dissatisfied about a 'relevant decision' may within 14 days after being told by the Secretary about the decision, apply to the Commissioner for examination of the decision.

An **aggrieved person** is a care recipient of the relevant provider, or his or her representative, to whom a matter under investigation relates (Type A informant).

For the investigation process the **relevant provider** means the approved provider to which the investigation relates.

A Type A informant may, within 14 days after being told by the Secretary about the decision, seek a review by the Commissioner. Examinable decisions are:

- A decision by the Secretary not to investigate a matter.
- A decision by the Secretary to cease investigating a matter.
- A decision by the Secretary that there has not been a breach of the approved provider's responsibilities.
- A decision by the Secretary not to issue a Notice of Required Actions (NRA).
- A decision by the Secretary setting, adding or varying conditions of an NRA.
- If the Secretary determines, after reconsideration, to issue an NRA for the first time, the decision to issue an NRA is an examinable decision.

An approved provider may, within 14 days after being told by the Secretary about the decision, seek a review by the Commissioner. Examinable decisions are:

- A decision by the Secretary that there has been a breach of the approved provider's responsibilities.
- A decision by the Secretary to issue an NRA.
- A decision by the Secretary setting, adding or varying the conditions of an NRA.
- If the Secretary determines, after reconsideration, to issue an NRA for the first time, the decision to issue an NRA is an examinable decision.