



Australian Government
Department of Health

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Department of Health
National Aged Care Regulatory Program

Regulator Performance Framework
Self-Assessment Report
2015-16

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Executive Summary

The National Aged Care Regulatory Program within the Department of Health (Health) regulates providers of aged care against the requirements of the *Aged Care Act 1997* (the Act) to meet three regulatory objectives:

- To protect the health, safety and interests of care recipients.
- To ensure the accountability of providers of aged care for the subsidies they receive from the Commonwealth.
- To ensure access to aged care across Australia and to special needs groups.

Our regulatory activities are targeted to meet the three regulatory objectives of the Act. The way we carry out our regulatory activities acknowledges that the majority of providers are compliant with their responsibilities under the Act. Accordingly, our interactions with the majority of providers are limited to routine monitoring (including that of the Quality Agency) that allows us to detect and prevent non-compliance.

This is our first performance report required under the Australian Government's *Regulator Performance Framework*. The framework requires all Commonwealth regulators to assess their performance against six Key Performance Indicators. The performance of our routine monitoring of, and communication with, all providers is assessed under KPI 1 – *Health does not unnecessarily impede the efficient operations of approved providers* and KPI 2 – *Health's communication with approved providers is clear, targeted and effective*. We have assessed our performance against KPI 1 as **Very Good** and KPI 2 as **Good**.

A minority of providers require our assistance to achieve compliance with their responsibilities under the Act. Our performance in assisting non-compliant providers to return to compliance is assessed under KPI 3 – *Actions undertaken by Health are proportionate to the regulatory risk being managed*, KPI 4 – *Compliance and monitoring approaches are streamlined and co-ordinated* and KPI 5 – *Health is open and transparent in our dealings with approved providers*. We also assess how well we have reported our regulatory performance to the Parliament, providers and the community under KPI 5. We have assessed our performance against KPI 3 as **Very Good**, KPI 4 as **Very Good** and KPI 5 as **Good**.

Finally, we assess our performance in continuous improvement at KPI 6 – *Health actively contributes to the continuous improvement of the aged care regulatory framework*. Through continuous improvement, we aim to regulate aged care with the minimum impact necessary while meeting the regulatory objectives under the Act. We have assessed our performance against KPI 6 as **Very Good**.

We have assessed our overall performance as **Very Good**. The Aged Care Sector Committee validated our self-assessment based on its consideration of the evidence we have provided against the thirteen performance measures under the six KPIs. We are committed to continuous improvement in our regulatory performance. In this vein, we have identified areas for improvement for each KPI. We look forward to continuing to work with the Aged Care Sector Committee and other stakeholders to improving our performance as a regulator of aged care.

1 Introduction

1.1 Regulation of Aged Care by the Department of Health

The Australian Government subsidises the provision of residential and home care aged care services to approximately 400,000 older people each year. In return for Australian Government subsidy and payments and care recipient fees and payments, providers of aged care are expected to meet certain requirements relating to the provision of care and services. These requirements are set out in the *Aged Care Act 1997* (the Act) and the Aged Care Principles (the Principles).

The National Aged Care Regulatory Program within the Department of Health (Health) regulates approved providers against the requirements of the Act to meet three regulatory objectives:

- To protect the health, safety and interests of care recipients.
- To ensure the accountability of providers of aged care for the subsidies they receive from the Commonwealth.
- To ensure access to aged care across Australia and to special needs groups.

To protect the health and safety of care recipients we operate a process to approve suitable organisations as approved providers of aged care (providers). The Australian Government also protects the health and safety of care recipients through the Australian Aged Care Quality Agency (the Quality Agency). The Quality Agency educates providers about their responsibilities to deliver quality care and monitors the quality of care they deliver. When necessary, Health enforces providers' compliance with aged care quality standards. The Quality Agency will assess its regulatory performance in a separate report.

To protect the interests of care recipients we educate providers about their prudential responsibilities. We monitor (and enforce where necessary) their compliance with prudential standards to protect the financial interests of care recipients that have paid accommodation deposits. We also consider an organisation's prudential suitability as part of the provider approval process. To ensure the accountability of providers for the subsidies they receive from the Commonwealth, we review the accuracy of providers' claims for subsidy made to the Department of Human Services through the Aged Care Funding Instrument (ACFI).

To ensure access to aged care across Australia and to special needs groups, we manage the provisional allocation of places to providers and the transfer of aged care places between providers. We can veto the transfer if there is unmet need in a region from which places are being transferred. This ensures that aged care remains accessible across Australia and to special needs groups. We can also veto a transfer if we have concerns about the compliance history of the receiving provider. We do this to protect the health, safety and interests of future care recipients.

1.2 The Report

This is Health's first performance report for the National Aged Care Regulatory Program. The report meets the requirements of the Australian Government's *Regulator Performance Framework* for the 2015-16 financial year. The framework requires regulators to self-assess their performance and have this self-assessment validated by a stakeholder validation mechanism before submitting the self-assessment report to their relevant Minister.

In April 2015, the following activities of the National Aged Care Regulatory Program were agreed by the Department of the Prime Minister and Cabinet as in scope for self-assessment:

- Approval of providers.
- Transfer of places.
- Regulation of accommodation payments (Prudential regulation).
- Review of providers' appraisals under the Aged Care Funding Instrument (ACFI).
- Monitoring of approved providers' responsibilities and key accountabilities.
- Imposing sanctions on non-compliant approved providers.

On 20 May 2015, the Assistant Minister for Social Services, Senator the Hon. Mitch Fifield, approved a set of draft performance measures and approved the Aged Care Sector Committee (ACSC) as the stakeholder validation mechanism for this self-assessment report. The ACSC includes representatives of approved provider peak organisations, consumer representatives and representatives of professional organisations with an interest in aged care. On 24 July 2015, the ACSC provided feedback on the draft performance measures. On 5 November 2015, aged care transferred from the Social Services portfolio to the Health portfolio. Following consideration of the ACSC's feedback, on 1 November 2015, the Minister for Aged Care, the Hon Sussan Ley MP, approved the thirteen measures used in this self-assessment report. This self-assessment report was considered by the ACSC out of session in September 2016. The committee agreed with Health's self-assessed *Very Good* rating for its activities in the National Aged Care Regulatory Program.

1.3 Methodology and structure

This report assesses Health's regulation of aged care against the six KPIs of the Australian government's *Regulator Performance Framework*. Our regulatory approach is consistent with the framework's overall aim that encourages regulators to *undertake their functions with the minimum impact necessary to achieve regulatory objectives and to effect positive ongoing and lasting cultural change within regulators*.

Our regulatory activities are targeted to meet the three regulatory objectives of the Act. We acknowledge that the majority of providers are compliant with their responsibilities under the Act. Accordingly, our interactions with the majority of providers are limited to routine monitoring (including that of the Quality Agency) that allows us to prevent and detect non-compliance.

The performance of our routine monitoring and communication with providers is assessed under KPI 1 – *Health does not unnecessarily impede the efficient operations of approved providers* and KPI 2 – *Health's communication with approved providers is clear, targeted and effective*.

A minority of providers need our assistance to achieve compliance with their responsibilities under the Act. Our performance in assisting non-compliant providers to return to compliance is assessed under KPI 3 – *Actions undertaken by Health are proportionate to the regulatory risk being managed*, KPI 4 – *Compliance and monitoring approaches are streamlined and co-ordinated* and KPI 5 – *Health is open and transparent in our dealings with approved providers*. We also assess how well we have reported our regulatory performance to the Parliament, providers and the community under KPI 5. Finally, we assess our performance in continuous improvement at KPI 6 – *Health actively contributes to the continuous improvement of the aged care regulatory framework*. Through continuous improvement, we aim to regulate aged care with the minimum impact necessary while meeting the regulatory objectives under the Act.

2 Performance Assessment

2.1 KPI 1 – Health does not unnecessarily impede the efficient operation of approved providers

Health has an ongoing and up-to-date understanding of the operating environment of providers of aged care. We maintain this understanding through: engaging with peak bodies and other regulatory agencies; our education activities and; our routine monitoring of providers.

We apply this understanding (in partnership with other regulatory agencies and stakeholders where appropriate) by limiting our routine monitoring activities to those that both directly address regulatory objectives and allow us to build risk profiles to prevent, detect and respond appropriately to non-compliance. We work to lower compliance costs and reduce the regulatory burden on providers so they can allocate resources to providing care.

2.1.1 Measure 1.1 – We demonstrate and apply an understanding of the operating environment of providers of aged care

We maintain an ongoing and up-to-date understanding of the operating environment of providers of aged care gained through our:

- Regular, ongoing engagement with aged care stakeholders including:
 - the *Aged Care Sector Committee* and its sub-committees
 - aged care provider peak organisations
 - aged care consumer organisations aged care professional organisations.
- Regular, ongoing engagement with aged care regulatory agencies such as the Quality Agency and the Aged Care Complaints Commissioner.

We apply our understanding of the operating environment of providers of aged care (in partnership with other regulatory agencies and stakeholders where appropriate) by limiting our routine monitoring activities to those that are necessary to identify risks:

- We only request information from applicants for approved provider status required to assess their suitability as defined in the Act.
- We monitor prudential risk by requiring each provider to submit:
 - an Annual Prudential Compliance Statement (APCS) for Health to assess risks related to refundable deposits paid to providers by care recipients
 - a General Purpose Financial Report (GPFR) annually so we can assess the provider's ongoing financial viability.
- We only veto an application for the transfer of places where there are concerns about the compliance history (including quality and prudential compliance) of the receiving provider or the places are being moved out of a region with unmet need.

2.1.2 Measure 1.2 – We engage stakeholders (including providers) in the development of options to reduce compliance costs

A reduction in compliance costs allows providers to allocate more resources to caring for care recipients. To ensure that our regulatory activities did not unnecessarily impede the efficient operation of aged care providers and to reduce compliance costs, we engaged stakeholders in the development of the following:

- We trialled a new Aged Care Financial Report to reduce complexity and improve the value of financial and prudential reporting.
- We reviewed the 2014-15 APCS and GPFR submissions to prepare for the update (and possible amalgamation) of the forms in 2016-17.
- We removed the requirement for providers to seek approval to transfer their residential, flexible or home care places to another provider, by introducing a simplified transfer approach following targeted engagement with providers. The new Transfer Notice now includes 26 instead of 52 questions.
- We consulted providers to align the regulation of provisionally allocated places with the business realities of care delivery.
- We conducted the South Australian Innovation Hub Trial to review administrative practices to reduce (compliance) costs. The evaluation will be released in 2016-17 and its findings will be considered to further reduce compliance costs for providers.

2.1.3 Analysis of evidence presented

Our performance in not impeding unnecessarily on the efficient operation of providers is very good. We have a strong demonstrated understanding of the operating environment of aged care providers through our regular, ongoing engagement with stakeholders and routine monitoring of the National Aged Care Regulatory Program.

Through trials of new reports, reviews of prudential submissions, simplified transfer processes and the South Australian Innovation Hub, we have engaged with stakeholders to develop options for reducing compliance costs.

2.1.4 Self-assessed rating of performance against KPI 1 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.1.5 Actions for improving performance against KPI 1

- More frequent and systematic engagement with all regulators.

2.2 KPI 2 – Health’s communication with approved providers is clear, targeted and effective

Health’s communication with providers of aged care is effective if it helps providers maintain compliance with their responsibilities under the Act. Our performance in communicating with providers to assist them in returning to compliance as soon as possible after non-compliance is discussed under *Measure 5.1 – Our decisions and advice to providers is provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.*

2.2.1 Measure 2.1 – We provide guidance and information to providers that is up-to-date, clear, accessible and concise through media appropriate for them

- We provided regularly updated general guidance and information to aged care providers through:
 - The [aged care website](http://agedcare.health.gov.au) at agedcare.health.gov.au.
 - The [My Aged Care website](http://myagedcare.gov.au) at myagedcare.gov.au.
- We provide Bulk Information Distribution Service (BIDS) notices and Aged Care Provider Newsletters to ensure all providers receive timely and consistent advice.
- We provide annually updated guidance on financial and prudential compliance obligations.
- We presented on regulatory matters at relevant conferences and received feedback from conference participants.

2.2.2 Measure 2.2 – We are open and transparent in our dealings with providers to ensure regulatory functions are clearly explained and offers providers information that supports them in complying with the *Aged Care Act 1997*

- We provide applicants for approved provider status with information about the [responsibilities of approved providers](#) as part of the application process.
- We publish information about the operation of our risk-based regulatory framework in the [Aged Care Compliance Policy Statement 2015-2017](#), and program specific information in the [Aged Care Funding Instrument \(ACFI\) User Guide](#).
- We offer to provide entry and exit interviews to each service following an ACFI review.
- We publish information on our [website](#) about changes to places management, including the transfer of places, and provided forms that are streamlined and easy to comprehend.

2.2.3 Analysis of evidence presented

Our communication with approved providers is generally clear, targeted and effective. We offer consistent and clear guidance to providers which allows them to understand what they need to do to comply with the National Aged Care Regulatory Program. The small number of reported non-compliance in 2015-16 indicates that providers generally understand their responsibilities under the Act.

2.2.4 Self-assessed rating of performance against KPI 2 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.2.5 Actions for improving performance against KPI 2

- Seek systematic feedback from providers on our communication’s effectiveness in helping them meet their responsibilities under the Act.
- Consult with stakeholders to consolidate provider responsibilities required by the Act into one document or webpage.
- Producing an ACFI education video targeted to providers to support voluntary compliance.
- Continue to provide updated guidance material and streamlined forms (where applicable) for approved provider applications and on places management issues, including a guide on combining services.

2.3 KPI 3 – Health’s actions are proportionate to the regulatory risk being managed

Health uses risk-based proportionate responses for providers that are not compliant with their responsibilities under the Act. Our risk assessment processes take account of the regulated activity, the diversity of providers, compliance history and other external factors affecting risk. Once potential or actual non-compliance is identified, we aim to:

- Ensure the health, safety and interests of aged care recipients and the financial interests of the Commonwealth.
- Return the provider as quickly as possible to compliance with the Act.
- Ensure the provider develops and implements systems to prevent future non-compliance, in order to ensure the health, safety and interests of aged care recipients and the financial interests of the Commonwealth.

We use a centralised risk based approach that is proportionate to the risk severity and considers potential consequences of the identified non-compliance. Our response supports providers to meet their obligations under the Act with the minimum possible regulatory intervention. Our response also ensures the efficient and effective use of provider and regulatory resources.

2.3.1 Measure 3.1 – We apply a risk-based proportionate approach to compliance obligations, engagement and regulatory enforcement actions

- We use a nationally consistent risk-based proportionate approach to aged care compliance published in the [Aged Care Compliance Policy Statement 2015-2017](#).
- We assess the severity of the risk to the wellbeing of care recipients in all cases of identified non-compliance.
- We only undertake compliance action where provider responsibilities may not be met, including in response to concerns about quality of care raised by the Quality Agency or the Aged Care Complaints Commissioner; where there is evidence of prudential non-compliance; or evidence of false, misleading or inaccurate information in ACFI claims.
- We only ask for additional prudential and financial information from providers who we assess as higher risk. We use this extra information to undertake detailed risk assessments.
- We monitor providers’ ACFI claims to ensure that providers are funded to provide appropriate care while ensuring the affordability and sustainability of the aged care system. We use the results of our ACFI monitoring to target the bulk of our ACFI reviews to providers with a higher risk of inaccurate claiming.
- We determine a proportionate response through administrative resolution and mechanisms for deterrence or enforcing the law where necessary. The proportionate response includes the level of engagement required for gathering further information and monitoring of the non-compliance. We prioritise engagement with providers that present the highest risk of non-compliance.
- The Act provides proportionate responses for non-compliance. These include:
 - Issuing a notice of non-compliance.
 - Imposition of sanctions.
 - Revocation of approved provider status.

- We meet regularly with the Quality Agency to discuss providers that are undergoing regulatory action due to non-compliance to ensure a co-ordinated and consistent approach and reduce the burden on providers with multiple regulatory issues.

2.3.2 Measure 3.2 – Our approach to assessing regulatory risk is regularly reviewed. Strategies, activities and enforcement actions are amended to reflect changing priorities that result from new and evolving regulatory issues

Health's approach to assessing regulatory risk is regularly reviewed and amended to reflect changing priorities. Information regarding new and evolving issues is gained through:

- We review our use of compliance pathway tools to ensure that there are appropriate tools for a proportionate compliance approach.
- A Central Office team quality assures national compliance notices for consistency and appropriateness.
- We review the prudential risk matrix annually to determine a provider's risk profile.
- We piloted proactive audit visits for providers at their site of business to test whether assessment of a provider's compliance with their prudential responsibilities can be conducted more effectively and efficiently on site.
- ACFI reviews were better targeted at risks of higher inaccurate claims. This meant fewer reviews were required.
- We trialled a revised Aged Care Financial Report to reduce complexity and improve the value of financial and prudential reporting.

2.3.3 Measure 3.3 – We consider a provider's compliance record when making decisions under the *Aged Care Act 1997*

When deciding on an approach to address non-compliance, we consider a provider's compliance history in our risk assessment.

- We consider a provider's compliance record when conducting a detailed risk assessment prior to making any decisions under the Act.
- We have regular meetings to agree our proposed compliance approach for providers with a record of non-compliance.
- We review providers' willingness and ability to comply and comparative length of time to return to compliance compared to other providers in similar circumstances.

2.3.4 Analysis of evidence presented

Our actions undertaken to manage regulatory risk are proportionate to the severity and level of risk identified. Therefore, our performance against this indicator is very good. Where non-compliance is identified, we often seek to address the non-compliance through administrative resolution in the first instance (depending on the nature of the non-compliance). We also consider a provider's previous compliance history when making decisions under the Act. Our approach to assessing regulatory risk is regularly reviewed. Several pilots and trials have tested the effectiveness of different compliance and enforcement strategies.

2.3.5 Self-assessed rating of performance against KPI 3 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.3.6 Actions for improving performance against KPI 3

- Improved monitoring processes resulting in more complete provider risk profiles.
- The frequency of ACFI risk modelling will be increased. Providers with higher risk of non-compliance will be visited more frequently, with a lighter touch approach for those with a lower risk profile and a good history of compliance.

2.4 KPI 4 – Health’s compliance and monitoring approaches are streamlined and co-ordinated

Health seeks to minimise compliance costs imposed on providers by streamlining compliance and monitoring approaches. We only seek information from providers to achieve our regulatory objectives. Through our strong partnership with the Aged Care Complaints Commissioner and the Quality Agency, we co-ordinate monitoring efforts to protect the health, safety and well-being of care recipients while minimising the regulatory burden on providers. Our centralised approval of provider applications contributes to streamlined compliance and monitoring by restricting access to organisations that are suitable to deliver quality care and manage refundable accommodation deposits.

2.4.1 Measure 4.1 – We request information only when required by aged care legislation and in other circumstances when it is necessary for us to make evidence based decisions

The Act gives us the authority to gather information via written request, entering a premises or questioning individuals.

- Under aged care legislation, we may use powers to request information from providers. This use is limited and where its use is not limited under the Act, policy has been embedded in guidelines to ensure we only request such information when it is necessary for us to make defensible evidence-based decisions. We have information sharing protocols in place between the Quality Agency and the Aged Care Complaints Commissioner in order to facilitate this exchange.
- We may also seek documentation from providers requesting to transfer aged care places in accordance with Division 16 of the Act, where additional information is required to support the transfer of places.

2.4.2 Measure 4.2 – We conduct compliance activities in a coordinated, predictable and streamlined manner which is transparent and understood by providers

We undertake our compliance activities in line with our published Aged Care Compliance Policy Statement 2015-2017. Health consults regularly with other aged care regulators to ensure information is shared about scheduled visits, emerging risks and issues in order to achieve a streamlined and coordinated approach. We do this through:

- Regular internal fortnightly aged care regulatory meetings that discuss providers of concern to ensure a co-ordinated regulatory response.
- Regular monthly meetings between Health and the Quality Agency to share regulatory intelligence in relation to providers of concern. These meetings assist in co-ordinating regulatory and compliance activities to minimise disruption for providers.
- Sharing information between the Quality Agency, the Aged Care Complaints Commissioner, the Department of Human Services and internal departmental areas.
- Coordinating site visits with the Quality Agency and the Aged Care Complaints Commissioner to minimise the time impost on providers.
- Communicating legislated steps, compliance pathways and possible outcomes to providers when notices are issued.

2.4.3 Analysis of evidence presented

We have a mature, streamlined and coordinated compliance and monitoring approach. When non-compliance is detected, we engage with providers to gather only information required to assess the provider's return to compliance. We only use regulatory notices to obtain information when it is necessary. We coordinate compliance activities with other relevant regulators through regular meetings resulting in reduced compliance costs for providers.

2.4.4 Self-assessed rating of performance against KPI 4 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.4.5 Actions for improving performance against KPI 4

- Improvements to information sharing processes and better communication between us and the Aged Care Complaints Scheme, the Quality Agency when coordinating site visits and requests for information.
- Implement an improved case management approach to refine our compliance engagement with providers.
- Sharing outcomes from the pilot of proactive audit visits with members of the Prudential Advisory Group.

2.5 KPI 5 – Health is open and transparent in our dealings with providers

When non-compliance (or potential non-compliance) is detected, Health determines the risk to health, safety and interests of current and future recipients of aged care services by engaging with the provider to tell them what the problem is and that it requires fixing.

2.5.1 Measure 5.1 – Our decisions and advice to providers is provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions

- We communicate the reasons for regulatory decisions to providers so that they understand what they need to do in order to return to compliance. We do this by ensuring that all regulatory notices and decisions provide a statement of reasons before inviting the provider to respond to the non-compliance. We engage with the provider to ensure that they understand the consequences of our decisions.
- We communicate the reconsideration and review processes available to providers following regulatory decisions. We do this by ensuring that all regulatory notices and decisions provide information about the rights of review following regulatory decisions.
- Our timeliness for meeting statutory and non-statutory timeframes for making decisions is supported by internal guidance material. We communicate the timeframes that must be met during a regulatory process. We do this by ensuring timeframes are included in all regulatory notices and communicated during engagement with providers.
- Where we reconsidered a decision to impose sanctions or a decision relating to an ACFI review classification decision, the decision on review was made within the 90 day legislated timeframe.
- On all occasions where we considered a decision of immediate and severe risk, our decision whether or not to impose sanctions was made within the non-statutory timeframe.

2.5.2 Measure 5.2 – Our performance measurement results are published in a timely manner to ensure accountability to the public

We publish aged care regulatory targets and deliverables in publications including the Portfolio Budget Statements, Health's Annual Report, the Report on the Operation of the *Aged Care Act 1997* and the Regulator Performance Framework – Self-assessment Report.

- [Portfolio Budget Statement \(PBS\) 2015-16](#) – The PBS shows the proposed allocation of resources to government outcomes for the up-coming financial year. In the 2015-16 PBS, we published the following regulatory performance targets:
 - 20,000 – Number of annual reviews of ACFI funding claims to ensure residents are correctly funded.
 - 100% – Percentage of GPFRs submitted by approved providers reviewed to assess financial risk.
 - 100% – Percentage of detailed risk assessments completed for residential aged care approved providers assessed as having a financial risk at the highest level.
 - 100% – Extent to which Health has taken appropriate action against approved providers to address serious non-compliance that threatens the health, welfare or interests of care recipients.

- **Department of Health – Annual Report 2015-16** – The Annual Report demonstrates Health’s actual performance against the proposed aged care regulatory objectives and targets published in the PBS. In the *Annual Report 2015-16*, we published the following:
 - 15, 763 – Number of annual reviews of Aged Care Funding Instrument funding claims to ensure subsidy levels are correct.
 - 100% – Percentage of General Purpose Financial Reports submitted by approved providers reviewed to assess financial risk.
 - 100% – Percentage of approved providers assessed as having a financial risk at the highest level undergoing a detailed risk assessment.
 - 100% – Percentage of occasions where Health has taken appropriate action against approved providers to address serious non-compliance that threatens the health, welfare or interests of care recipients.
- **Report on the Operation of the Aged Care Act 1997 (ROACA) 2015-16** – We have a requirement under section 63-2 of the Act to report the operation of the Act to Parliament by 30 November each year. The ROACA describes the operation of the Act and includes the extent to which providers are complying with their responsibilities under the Act, the imposition of any sanction for non-compliance including details of the nature of the non-compliance and the sanctions imposed. ROACA also contains regulatory performance information regarding the Accommodation Payment Guarantee Scheme and ACFI reconsideration decisions.
- **Regulator Performance Framework Self-assessment Report** – This report will be published on our website by January 2017.

2.5.3 Analysis of evidence presented

Our performance in being open and transparent when dealing with non-compliant providers is good. Where non-compliance (or potential non-compliance) is detected, we engage with providers and give them the opportunity to address compliance concerns without the need for us to take further action (depending on the risk posed by the non-compliance). Reasons for regulatory decisions and timelines are clearly communicated to providers. We publish our aged care regulatory performance results in several annual publications.

2.5.4 Self-assessed rating of performance against KPI 5 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.5.5 Actions for improving performance against KPI 5

- A streamlined ACFI reconsideration process will be implemented during 2016-17.
- Streamline ROACA and the Self-assessment report to remove duplication.
- Investigate ways in which reporting activities can be further streamlined.

2.6 KPI 6 – Health actively contributes to the continuous improvement of the aged care regulatory framework

Throughout the aged care regulatory process, information is collected as part of monitoring and compliance activities. We use this information to improve the regulatory framework to manage risk with the minimum impact necessary on providers.

2.6.1 Measure 6.1 – We establish cooperative and collaborative relationships with providers to promote trust and improve the efficiency and effectiveness of the regulatory framework

We have established communication channels to promote regular feedback with aged care stakeholders. Information collected is used to inform improvements in legislation and achieve reduced compliance costs. We consulted appropriate stakeholders on all major changes to processes in the aged care program prior to implementation including:

- The Aged Care Sector Committee, through the ACSC ACFI Expenditure Working Group and the ACFI Technical Reference Group.
- The Prudential Advisory Group (comprised of approved provider and finance sector representatives) to review and promote prudential regulation.
- Regular stakeholder engagement throughout the Red Tape Reduction Action Plan and the development phase of the Red Tape Reduction in Places Management initiative.

We use our regular meetings and information exchange with the Quality Agency and the Aged Care Complaints Commissioner to consider efficiencies and emerging risks in the regulatory framework.

2.6.2 Measure 6.2 – We implement continuous improvement strategies across key compliance activities with providers

Stakeholder feedback informs the development of proposed improvements and assists in maintaining a cycle of continuous improvement. We continuously improve through:

- Actively seeking feedback from the sector and other interested parties on policy design, impacts on consumers and providers, and future information and support needs including:
 - Engaging with stakeholders to review the processes and risk indicators used to assess provider prudential risk throughout 2015-16.
 - Reviewing communication materials targeted to providers about the GPFR and APCS forms in June 2016 in partnership with the Prudential Advisory Group.
 - Reviewing the approved provider application form and associated guidance in preparation for the implementation of streamlined processes in 2016-17. Existing providers that have already demonstrated their suitability to provide aged care will find it easier to seek approval to provide other types of care.
- Meeting regularly with aged care regulators to share intelligence in relation to providers of concern and consider improvements to our regulatory responses.
- Conducting the South Australian Innovation Hub Trial to review administrative practices to reduce (compliance) costs. The evaluation will be released in 2016-17 and its findings will be considered to reduce compliance costs for providers.

- Removing the requirement for providers to seek approval to transfer their residential, flexible or home care places to another provider, by introducing a simplified transfer approach on 10 February 2016.

2.6.3 Analysis of evidence presented

Our contribution to the continuous improvement of the regulatory framework is very good. We promote trust in the regulatory framework by regularly consulting with providers before changes occur and actively seeking feedback through established feedback mechanisms. By working cooperatively with established stakeholder groups to review and improve regulatory processes we have improved the efficiency and effectiveness of the regulatory framework.

We have also demonstrated a commitment to ongoing improvements of the regulatory framework through implementing the Red Tape Reduction Action Plan.

2.6.4 Self-assessed rating of performance against KPI 6 – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the measures under the KPI.	Strong performance against majority of the measures under the KPI and no evidence of negative/poor performance against any measure.	Average performance against the measures under the KPI.	Poor performance against some measures under the KPI.	Poor performance against most of the measures under the KPI.

2.6.5 Actions for improving performance against KPI 6

- When regulatory circumstances change or if new risks are identified, we could work more collaboratively with stakeholders in developing options to improve the framework.
- Consider combining all aged care regulatory feedback mechanisms.

3 Overall Assessment and Actions for Improvement

3.1 Analysis of evidence

Health has demonstrated a strong performance against most of the key performance indicators and measures of the Regulator Performance Framework. Through our experience managing the National Aged Care Regulatory Framework, we have refined and improved our regulatory processes.

3.1.1 KPI 1 – Health does not unnecessarily impede the efficient operation of approved providers

Self-assessment: Very good

Through regular, ongoing engagement with stakeholders we have developed a strong understanding of the operating environment of providers to ensure that we do not necessarily impede their efficient operation. We have also worked with providers to successfully implement options for reducing compliance costs.

3.1.2 KPI 2 – Health’s communication with approved providers is clear, targeted and effective

Self-assessment: Good

We regularly make information available for providers to help them clearly understand their compliance obligations. Information is regularly updated for correctness and consistency and distributed to providers through a variety of media.

3.1.3 KPI 3 – Health’s actions are proportionate to the regulatory risk being managed

Self-assessment: Very good

We have a strong commitment to applying proportionate responses to non-compliance. Our risk-based approach promotes the most efficient use of resources and minimises the burden on providers to support them to return to compliance and ensures enforcement action that is proportionate to the seriousness of the risk of non-compliance. We regularly review and test our processes for assessing regulatory risks which assists us in developing a range of proportionate regulatory tools to ensure compliance.

3.1.4 KPI 4 – Health’s compliance and monitoring approaches are streamlined and co-ordinated

Self-assessment: Very good

Our monitoring and compliance approaches are streamlined and co-ordinated and contribute to reduced compliance costs for providers. Our monitoring processes assist us with determining the level of non-compliance for providers. We do not seek additional information from providers unless it is required to achieve regulatory outcomes and depending on the level of risk identified we use a range of regulatory instruments to obtain further information.

3.1.5 KPI 5 – Health is open and transparent in our dealings with providers

Self-assessment: Good

We are open and transparent when dealing with non-compliant providers by clearly communicating our reasons for regulatory decisions and information to assist providers to return to compliance as soon as possible. We also make our regulatory performance results available which provides accountability for our regulatory approach.

3.1.6 KPI 6 – Health actively contributes to the continuous improvement of the aged care regulatory framework

Self-assessment: Very good

We have a demonstrated commitment to continuous improvement of the National Aged Care Regulatory Framework. As the National Aged Care Regulatory Framework is relatively mature, we have had several years to work with stakeholders to identify inefficiencies and provide options to improve to the framework. We have also improved the National Aged Care Regulatory Framework and reduced the burden of regulation for providers through our contribution to the Government’s Red Tape Reduction Action Plan initiative.

3.2 Self-assessed rating of performance against all KPIs – 2015-16

Excellent	Very Good	Good	Fair	Poor
Strong performance against all the KPIs.	Strong performance against majority of the KPIs and no evidence of negative/poor performance against any KPIs.	Average performance against the KPIs.	Poor performance against some KPIs.	Poor performance against most of the KPIs.

3.3 Performance improvement actions identified

3.3.1 KPI 1 – Health does not unnecessarily impede the efficient operation of approved providers

- More frequent and systematic engagement with all regulators.

3.3.2 KPI 2 – Health’s communication with approved providers is clear, targeted and effective

- Actively seek systematic feedback from providers on the effectiveness of our communication.
- Consolidate provider responsibilities into one document.
- Produce an ACFI education video targeted to providers to support voluntary compliance.
- Provide updated guidance material and streamlined forms for approved provider applications and on places management issues.

3.3.3 KPI 3 – Health’s actions are proportionate to the regulatory risk being managed

- Improved monitoring processes for better risk profiling.
- Increase the frequency of ACFI risk modelling.

3.3.4 KPI 4 – Health’s compliance and monitoring approaches are streamlined and co-ordinated

- Improvements to information sharing processes with other regulators.
- An improved case management approach to refine compliance engagement with providers.
- Share outcomes from the pilot of proactive audit visits with the Prudential Advisory Group.

3.3.5 KPI 5 – Health is open and transparent in our dealings with providers

- Implement streamlined ACFI reconsideration process.
- Streamlined reporting processes to remove duplication.
- Investigation into which reporting activities can be further streamlined with reduced timelines.

3.3.6 KPI 6 – Health actively contributes to the continuous improvement of the aged care regulatory framework

- Work more collaboratively with stakeholders in developing options to improve the framework.
- Consider combining all aged care regulatory feedback mechanisms.