

PARLIAMENTARY INQUIRY QUESTION ON NOTICE

Department of Health and Aged Care

Senate Standing Committee on Community Affairs Legislation Committee

Inquiry into the Aged Care Bill 2024 (Provisions)

03 October 2024

PDR Number: IQ24-000165

Complaints Commissioner under the Aged Care Bill

Written

Senator: Marielle Smith

Question:

What will the functions of the Complaints Commissioner be under the Aged Care Bill? How does that differ from its current functions?

Answer:

The Aged Care Bill provides that the Complaints Commissioner will be appointed by the Minister and located within the Aged Care Quality and Safety Commission (Commission). The Complaints Commissioner will hold a number of complaints functions and will be assisted by the staff of the Commission. The Aged Care Quality and Safety Commissioner will not hold these complaints functions.

This can be contrasted with the current legislation, under which the Complaints Commissioner is not a statutory role and does not have any assigned functions. Rather, the Complaints Commissioner is an SES appointment made by the Aged Care Quality and Safety Commissioner and manages complaints on behalf of the Commissioner.

Establishing the Complaints Commissioner as a statutory appointment within the Commission reflects and directly responds to stakeholder feedback, and to the Royal Commission's recommendations about the independence, transparency, and accountability of complaints handling by the Commission.

The Complaints Commissioner's functions focus on promoting best practice complaints handling, including within the Commission and for registered providers. The Complaints Commissioner is responsible for maintaining processes for complaints made to the Commission.

The Complaints Commissioner may consult with the System Governor, the Inspector-General of Aged Care, and the Pricing Authority in performing their functions.

The way in which complaints will be handled by the Commission will be set out in the rules, and in guidance material published by the Complaints Commissioner. The Aged Care Bill provides that those rules may make provision in relation to:

- how complaints may be made to the Complaints Commissioner,
- the roles, rights and responsibilities of complainants, registered providers, aged care workers and any other relevant persons,
- the process for resolving complaints, including early resolution and restorative justice practices, and
- actions that may be taken to address complaints, which may include requiring a registered provider to do something.

The Bill enables the Complaints Commissioner to publish guidelines, by notifiable instrument, relating to those rules to reinforce the commitment to accountability and transparency in complaints handled by the Commission.