

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: IQ24-000164

Responsible person duty legislation

Written

Senator: Marielle Smith

Question:

What is the responsible person duty? How does the legislation define who is a responsible person.

Answer:

The responsible person duty requires responsible persons to exercise due diligence to ensure that the provider complies with the provider's duty.

The responsible person duty will only apply to certain individuals who:

- are responsible for the executive decisions of the registered provider;
- have authority or responsibility for (or significant influence over) planning, directing or controlling the activities of the registered provider; or
- have responsibility for the overall management of the nursing services delivered by the registered provider, such as a Director of Nursing.

A responsible person is not limited to employees of a registered provider and can include subcontractors that hold such positions.

The duty does not apply to persons who are responsible for the day-to-day operations of a registered provider.

This is because the scope of the duty is intended only to capture those who hold critical roles and have the potential to influence the culture and accountability of a registered provider to uphold their duty through their decisions and behaviours.

The Aged Care Bill provides examples of what are considered reasonable steps for a responsible person to exercise due diligence. This list is non-exhaustive, and what is considered reasonable will depend on the circumstances, including the role and level of influence of the responsible person.