

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]

21 October 2024

PDR Number: IQ24-000178

Complaints process

Spoken

Hansard page number: 21

Senator: Marielle Smith

Question:

Secondly, can you explain to the committee how the complaints process will work and how rights will be enforced by the complaints commissioner.

Answer:

Complaints Process

Clause 361 of the Aged Care Bill 2024 (Bill) allows the rules to outline how complaints or feedback received by the Complaints Commissioner will be handled. The rules will be consulted on, however the intention is that they will cover:

- expectations about communication by the Complaints Commissioner throughout the complaint process,
- referral pathways for when a complaint is better handled by a different body,
- ways in which the Complaints Commissioner may end a resolution process, including where the complainant and respondent have agreed on an outcome or the registered provider has addressed the complaint,
- how the Complaints Commissioner may conduct and finalise a complaint process, for example by requesting further information, requiring the registered provider to do something, or conduct and/or facilitate conciliation and restorative justice processes between the parties.

To ensure that the Complaints Commissioner's processes and practices are as transparent as possible, subclause 361(3) also requires the Complaints Commissioner to publish guidelines in relation to their handling of complaints. These guidelines are a notifiable instrument because it is expected that they will be of long-term public interest, particularly to registered providers and individuals accessing funded aged care services.

Any person impacted by a complaints decision made by the Commission can request that the Complaints Commissioner reconsider the complaints decision. Reconsideration requests may be made either in writing or orally, must set out the reasons for the reconsideration request and must be given with 42 days of the relevant person being notified of the complaint's decision (though a longer period may be allowed by the Complaints Commissioner).

Rights

A person can make a complaint, or provide feedback, to the Complaints Commissioner about any of the matters in paragraph 358(a) of the Bill. Complaints can be made about:

- compliance with the Act by a registered provider or a responsible person or aged care worker,
- registered providers acting in a way that is incompatible with the Statement of Rights,
- other feedback about a registered provider or a responsible person or aged care worker of a registered provider.

People will be able to make a complaint about any behaviour by a provider which is incompatible with the Statement of Rights, regardless of whether it can be directly linked to a breach of the Code of Conduct, the Aged Care Quality Standards, or another provision of the Bill.