
Aged Care and Other Legislation Amendment Bill Submission

August 2025

Thank you for the opportunity to make a submission on the Aged Care and Other Legislation Amendment Bill.

Given the limited timeframe and the considerable amount of content, I am unable to provide feedback on all aspects. My comments are therefore focused on some of the selected areas of concern.

Consumer Protections

Australian Consumer Law (ACL)

The Aged Care Act appears to lack adequate coverage of the Australian Consumer Law (ACL). This remains an ongoing concern, as consumer protections under the ACL often do not receive the attention they warrant.

The Aged Care and Other Legislation Amendment Bill 2025 or the Aged Care Act 2024 under Division 1 - Aged Care Rights section 24 (Effect of Statement of Rights) has the following:

(c) compliance with other laws of the Commonwealth, or of a State or Territory, including the Work Health and Safety Act 2011

However, it further states that nothing in this Division creates rights or duties that are enforceable by proceedings in a court or tribunal therefore content relating to consumer protections should be provided.

The Act only notes that providing the Statement of Rights is a condition of registration for certain registered providers and that a registered provider must demonstrate understanding of the Statement of Rights and have in place practices to ensure that the provider acts compatibly with the Statement of Rights. This reinforces the need for information relating to Consumer Law rights as the Statement of Rights is not enforceable by proceedings. My understanding is that Australian courts and tribunals can enforce the ACL and impose penalties for breaches.

In 2017, the Australian Competition and Consumer Commission (ACCC) consulted with stakeholders and consumers through the Consumer Directed Aged Care (CDAC) Project, aligning with its priority to protect vulnerable individuals. The goal was to identify the information needed by both providers and consumers regarding rights and obligations, and to support older consumers in understanding their rights.

Consumer Directed Aged Care (CDAC) link: <https://consultation.accc.gov.au/consumer-small-business/consumer-directed-aged-care/>

A guide to the Australian Consumer Law and consumer vulnerability for business link:

<https://www.accc.gov.au/about-us/publications/a-guide-to-the-australian-consumer-law-and-consumer-vulnerability-for-business>

The purpose of ACCC's home care services page is to educate providers and consumers about their rights or responsibilities under the Australian Consumer Law including about agreements or contracts. Home care providers must comply with the Australian Consumer Law. This is the case whether consumers use their own money or government funding, such as under a Home Care Package or the Commonwealth Support Programme, and in addition to the rights and responsibilities under other laws like the Aged Care Act. All home care packages are delivered on a consumer directed care basis giving consumers the ability to choose and change their home care provider. Providers need to make sure agreements are easy to understand and do not include unfair terms. In regards to a product or services, certain consumer rights always exist under the law, and the terms and conditions of a contract can't take away these rights. Consumers also have the right to get what was promised and includes that service providers must carry out all services using an acceptable level of care and skill.

According to the final draft of the new Aged Care Rules 2025, it is expected that a registered provider must take reasonable steps to prevent damage being caused to an individual's property by the provider, or an aged care worker of the provider, in delivering funded aged care services to the individual. Link: <https://www.health.gov.au/resources/publications/final-draft-of-the-new-aged-care-rules>.

I have encountered a home care service provider that included a waiver in its home care agreement, yet makes no mention of consumer rights or protections—neither within the agreement itself nor in their supporting information kit. This underscores the importance of the Aged Care Act explicitly referencing the ACL or clearly outlining consumer rights.

Another example is the Bupa Aged Care Class Action here: <https://shorturl.at/YTTvU>.

It is based on allegations that Bupa has failed to provide residents with the minimum acceptable level of care required under Australian law, at each of its aged care homes. While this example pertains to residential aged care, similar issues can also arise with home care services.

Online services platform Mable also admitted to breaching the Australian Consumer Law by using unfair contract terms when connecting people seeking care support to independent support workers. Support services facilitated through Mable include social support, domestic support, nursing services and allied health services. Link: <https://www.accc.gov.au/media-release/disability-and-aged-care-support-platform-amends-unfair-contract-terms>.

Live Life Alarms is an online seller of personal 'SOS' alarms which are typically used by the elderly and people with disabilities to contact friends, family or emergency services if they require urgent assistance. They were issued with infringement notices for alleged false or misleading representations. Link: <https://www.accc.gov.au/media-release/live-life-alarms-pays-penalties-for-allegedly-misleading-statements-on-its-website>

The lack of information is noticeable, even in the Support at Home service agreement resources (13 August 2025): <https://www.health.gov.au/resources/collections/support-at-home-service-agreement-resources>

These materials do not adequately address consumer protections, such as those provided under the Australian Consumer Law. For instance, the Support at Home: Guidance for providers on service agreements links to pricing guidance and resources but does not include consumer protection details in the associated checklist. While the Statement of Rights is included, there is no mention of key consumer protections—such as informing participants of their rights under the ACL. This omission is concerning, especially given that the new Act requires compliance with other relevant Commonwealth, State, or Territory laws, including the Work Health and Safety Act 2011.

From 1 November 2025, the Australian Consumer Law will play an increasingly critical role, as registered providers in categories 1, 2, and 3 will not be subject to audits against the strengthened Quality Standards. This shift reinforces the need for clear policy guidance to ensure providers are aware of, and comply with, their obligations under the ACL, particularly regarding the provision of services with due care and skill.

This issue was highlighted in multiple submissions during the aged care reform consultations and through feedback shared over several years. Taking action to address it would help close a critical gap in the system.

Snapshot of Feedback and Findings

“A fundamental part of an agreement for services in most commercial settings in Australia is a written contract. Whether or not there is a contract, there is at least the Australian Consumer Law. It is fair to assume that few providers and only a handful of intending residents, are aware of these overarching rights.” **Source:** [Australian Lawyers Alliance \(ALA\) New Aged Care Act: exposure draft consultation Submission 16 Feb 2024](#)

“Other problem themes emerging with significant growth since 2016 are high pressure sales tactics (rising significantly from 4% to 7%), unclear contract terms and conditions (also increasing significantly since 2016 from 11% to 15%).” **Source:** [ACL Australian Consumer Survey 2023 Final Report](#)

“The rights of older people are the same universal rights afforded to all adults. Australia recognises and protects individual rights by signing to multiple international conventions and via a range of federal, state and territory laws, the Australian Constitution and common law. However, in real terms, as people reach older age, many experience an erosion in the enactment of their rights.” **Source:** [OPAN Submission to a new program for in-home aged care \(2022\)](#).

“An omnibus Act like the Australian Consumer Law can be a minefield to navigate, even for legal professionals. SRS believes that Act could be made much more accessible for the ordinary consumer to be easily able to identify and locate their rights and to find out how they can achieve those rights.” **Source:** [Senior Rights Service \(SRS\) Australian Consumer Law Review Submission 27 May 2016](#)

Delivery of funded aged care services

Cancellation Policies

The section in the Act concerning the non-delivery of funded aged care services requires further clarification. According to the Support at Home program manual (A guide for registered providers June 2025) when a participant provides less than 2 business days' notice of a cancellation to a scheduled service it is considered as late cancellation but there are some reasonable grounds that should be considered. **However, it does not specify how the requirement for 2 business days' notice was determined.**

According to the Home Care Packages Program Assurance Review No. 3, the Pricing Transparency on My Aged Care Public Summary Report (October 2023) there were incidental out of scope findings such as some providers advertising charges for cancellation within certain timeframes. Link here: <https://www.health.gov.au/resources/publications/home-care-packages-program-assurance-review-no-3-pricing-transparency-on-my-aged-care-public-summary-report>

These providers were asked to consider if these were reasonable and justifiable. For incidental out of scope findings, providers were generally asked to:

- review the observation(s) identified
- consider reasonableness, and/or
- ensure the approach met legislative and/or program requirements.

The review also referred to the Social, Community, Home Care and Disability Service Industry (SCHADS) award and the fact sheet on the Impact of changes to the SCHADS Award for the Home Care Packages Program here:

<https://www.health.gov.au/resources/publications/impact-of-changes-to-the-schads-award-for-the-home-care-packages-program>.

It stated that Providers may charge a care recipient if a service is cancelled at short notice, this may equate to all or part of a workers' shift depending on the service and the cancellation terms need to be reasonable and agreed with the care recipient and documented in the Home Care Agreement.

It also states that where a care recipient cancels a service within seven days of a scheduled home care or disability service, an employer may either direct the employee to perform alternative duties or cancel the rostered shift or affected part of the shift. If an employer elects to cancel the rostered shift (or the affected part of the shift), they must either provide the employee with payment for that shift or provide the employee with makeup time. An employer can only elect to provide an employee with make-up time if they have given the employee at least 12 hours' notice of the cancelled shift and at least seven days' notice of the make-up time shift. Perhaps some providers are determining their cancellation policy in consideration of the SCHADS.

Services may also be scheduled for Mondays, and since many businesses or external contractors are closed on weekends, providing the required notice may not be feasible. To prevent confusion, the term "*business day*" should be clearly defined. While it is commonly understood to mean Monday to Friday, some operate or provide services over the weekend. For example, if a cancellation notice is given on a Saturday for a service booked on a

Monday, it is unclear whether this would meet the requirement for sufficient notice. Clear guidance on how such scenarios are handled should be provided.

Cancellation policies and clauses in agreements should align with the Australian Consumer Law (ACL), even when requiring at least 2 business days' notice. It is essential that such policies are fair, reasonable, and consistent with standard business practices. Under the ACL, unfair contract terms are not permitted, meaning cancellation fees must be proportionate and not excessive. In my view charging a cancellation fee—or the full cost of the service—should only occur when the charge reflects a genuine loss, such as staff time or lost business opportunities. Policies or agreements should also clearly state if no fees will be charged when no loss has been incurred. If a notice period is specified under the Aged Care Act, it should also clarify that all cancellation and no-show policies must remain consistent with the ACL. This should include that cancellation terms need to be reasonable and agreed with the care recipient and documented in the Home Care Agreement.

Nevertheless, I believe that a 1-day notice is more reasonable than a 2-day notice.

Home Care Packages (HCP) Contributions.

I am concerned about the proposed changes to contribution charges or the individual contribution rates. I do not support the changes, particularly the decision to charge full pensioners. This could place them in a position where they feel compelled to decline certain services in order to avoid additional costs. This could lead to a decline in health, wellbeing, and safety at home. Even small contributions can add up and place stress on limited budgets. They may also cut back on other essentials like food and medications.

There still appears to be uncertainty around the fees and grandfathering rules. Further clarification is needed, particularly for existing Home Care Package recipients transitioning to Support at Home. Currently some providers have chosen not to charge or collect contribution fees (basic daily fee), even when a recipient was assessed as eligible to pay. Will these individuals (HCP on or before 12 September 2024) be exempt under the grandfathering arrangements? Will the 'no worse off principle' apply?

Aged Care Quality Standards

Periodic Reviews

I believe the proposed timeframe for the initial and subsequent reviews is too lengthy and may not support timely updates and improvements. Outdated standards might fail to address newly identified risks. Care standards also need to reflect the latest evidence. Confidence in the system will be lost if standards appear irrelevant. The first should be done in 2 years' time and subsequent reviews every 3 years.

Compliance Information and the Aged Care Star Ratings

I have concerns about the credibility of the Aged Care Star Ratings system—even if changes are introduced. I've seen providers maintain a 3-star overall rating while receiving a staffing rating of 1, indicating ongoing shortfalls. In one case, this low staffing score persisted for three years without any enforceable action being taken. This is a failure to meet their care

minute targets. It raises the question: what is the purpose of collecting compliance data if it isn't meaningfully reflected in the star ratings? The system must be transparent and accountable to genuinely inform and protect older Australians and their families.

Compliance data should include information about a provider's supervision status—whether it is targeted, active, or heightened. This information should be clearly displayed on the My Aged Care website alongside the provider's compliance rating. In the case I mentioned earlier, it's possible the provider was under some form of supervision, such as targeted supervision, but this was not publicly available. These details are essential for transparency and accountability and should be made publicly accessible.

Provider Registration and Monitoring

Obligations of registered providers and conditions on registration of registered providers

My understanding is that the condition of registration on complaints, feedback and whistleblowers will apply to all registered providers. CHSP and NATSIFACP providers will also be registered providers under the new Act and will need to adhere to any conditions of registration and obligations that apply to them. The Code of Conduct will apply to all providers under the new Act. All registered providers will be required to comply with rights and principles. The strengthened Quality Standards will be one of the conditions to comply with but not for those registered under categories 1, 2 and 3. This is concerning and have never supported this change.

I am aware that the intent is based on the level of risk associated with the type of care that the providers wish to deliver and having a risk proportionate approach aiming to make it less onerous for providers of lower risk services to enter the market. Nonetheless it is concerning that some providers may not face the same level of scrutiny as others or there will be less oversight. This may lead to poor services and a lack of accountability.

The removal of strengthened aged care standards for some registration categories such as for domestic and meal services raises concerns about whether it aligns with the Statement of Rights outlined in section 23 of the new Act. The Statement of Rights is designed to ensure that aged care recipients' rights are protected, that they receive quality safe and respectful services. Furthermore, providers must demonstrate they understand the Statement of Rights in strengthened Quality Standard 1 but this standard will not apply to registered providers under categories 1, 2 and 3 and so oversight may be less and lead to poor adherence. The removal of the standards could potentially diminish the intent of the new Aged Care Act and its Statement of Rights. It could risk providers respecting the individual's right to advocate and make informed decisions about their care. It might lead a gap in accountability for providers, potentially leaving recipients vulnerable to subpar care or exploitation. This would not align well with the rights the Statement promotes.

I am also aware that there may still be an assessment by the Commission (regulator) for Categories 1, 2 and 3 but it will be a check in terms of the other tests that are set out in the legislation relating to a provider such as understanding the services that they need to offer or if key personnel have the capability and skills to deliver those services. Evidence against those requirements will be required and making an assessment against those operating in Categories 1, 2 and 3. However if the aim was to lessen the burden on low-risk providers, a more targeted approach could have been considered instead of completely removing them. By concentrating on upholding standards relevant to services under Categories 1, 2, and 3, a balance could be struck in ensuring quality. Certain aspects of the standards could still be applied based on the service's risk level, maintaining quality without overwhelming low-risk providers. This approach would enable a more nuanced method, where providers posing minimal risks to recipients are not faced with unnecessary obstacles but still operate within a quality assured framework. Thoughtful implementation should have been prioritised to achieve a balance between reducing regulatory burdens and safeguarding fundamental rights.

This also relates to the reviews of operation of the Aged Care Quality Standards and that the proposed timeframe for the initial and subsequent reviews is too lengthy.

I am not confident with the new regulatory model or the monitoring system. It does not seem that concerns about potential conflicts of interest and if feedback has been adequately considered, especially when it comes to ensuring that the system is truly independent and accountable. It's important that any monitoring body operates without any real perceived conflicts of interest to maintain public trust and ensure that providers meet their obligations. I am in agreement with concerns raised with having the Aged Care Complaints Commissioner within Aged Care Quality and Safety Commission and not completely separate. Having an independent Complaints Commissioner within the ACQSC does not promote the independence, transparency and accountability of complaints. This gives me low confidence in the monitoring of provider obligations.

Aged Care Reform Consultations

Consultations throughout the reforms is unacceptable and very rushed. This includes the timeframes and the way the information has been released. I have not been able to keep up. Additionally, I feel there is a lack of transparency since I noticed that not all submissions or feedback are publicly released if permission is provided. Also merely providing a summary of the feedback does not capture all of the feedback by stakeholders.

This can give the false impression that stakeholders are broadly satisfied, when in fact there may be strong concerns.

I am also concerned that only a small number of recipients, family members, or representatives will make submissions or provide feedback, which may result in inadequate

changes. Additionally, there is concern that the aged care reforms are not well understood, which could further limit the quality and quantity of feedback received.

When only a small number of individuals with lived experience are able to provide input, the voices of aged care providers and other related stakeholders inevitably become dominant in shaping policy and practice. This can result in changes that prioritise operational convenience or financial considerations over the rights, needs, and preferences of those receiving care. This also undermines the intent of reforms aimed at consumer-directed care and a rights-based approach. It is essential that there is greater engagement, to ensure that their voices are central to the reform process and that power is more equitably balanced across all stakeholders.

Allied health appears to have been overlooked in residential aged care, as reflected in the descriptions provided in the Residential Aged Care and Services List. It is concerning given the critical role allied health professionals play in supporting older Australians. I recommend reviewing submissions and feedback from key organisations such as Allied Health Professions Australia, Speech Pathology Australia and Occupational Therapy Australia to better understand these concerns.

It appears misleading information may be provided in some instances by aged care providers in accessing these services. I can personally substantiate this is the case through the aged care journey. The family member lived in an aged care home and at the time, I found care was inadequate including allied health care or services. This relates to provider giving misleading information about their responsibility to provide allied health services, claiming that these services can only be accessed through the Medicare Chronic Disease Management (CDM) plan. Medicare funded CDM allied health services is available to all recipients but information should be clear when Medicare funded CDM allied health services can be used and eligibility requirements. Including the decision to utilise this option is with consultation with the recipient's GP. This option should not be inappropriately used because a provider fails to provide the care and service.

It would be helpful to have an inquiry into the role of allied health in residential aged care, to better understand the gaps and make sure these important services are properly included.

While the new Aged Care Act and associated reforms may give the appearance of positive change, there are concerns that the improvements are more superficial than substantive. It falls short of addressing the systemic issues that continue to impact the quality of care.

I give permission to publicly publish my submission with my full name (without revealing my email address).