

# Governing for quality aged care

A director's guide

APRIL 2025

## Introduction

The findings and recommendations of the Royal Commission into Aged Care Quality and Safety (**Royal Commission**) have resulted in significant reform that has profoundly changed the governance and management of aged care providers.

### RESPONSIBLE PERSON DUTY

This duty applies to directors and senior executives and managers of aged care providers.

The duty places a requirement on responsible persons to exercise *due diligence* to ensure that the provider complies with the separate Provider Duty. The provider duty is a requirement that it does not cause adverse effects to the health and safety of older people while delivering funded aged care services.

Due diligence is defined as taking 'reasonable steps' in several areas. For example, the responsible person ensuring the provider has appropriate processes for considering information regarding incidents and risks and responding in a timely way.

A breach of the duty carries the threat of significant fines.

In two significant legislative packages in 2022 and 2024 the rights of older Australians who receive aged care services have been placed at the centre of the system under the **Aged Care Act 2024 (the Act)**. The changes also place direct accountability on directors for the quality and safety of aged care services.

The responsible person duty and the Code of Conduct for Aged Care (**Code of Conduct**) that apply to directors are summarised in the accompanying boxes. Steps for how a board can meet the responsible person duty is covered in **Section 5** below. The guidance contained in this Guide will also assist a board and provider in meeting the obligations under the Provider Duty, Code of the Conduct and the Statement of Rights.

The reforms strengthened the Aged Care Quality and Safety Commission's monitoring, investigation, and enforcement powers, including provider and responsible person compliance with the Code of Conduct and the Aged Care Quality Standards. The legislation also establishes an independent Complaints Commissioner.

While directors may not directly participate in service delivery, it is their responsibility to have clear oversight of the quality of services on the ground. This mindset will be critical to a provider meeting its duty and directors meeting the separate responsible person duty.



### PROVIDER DUTY

This duty places a requirement that a registered provider must ensure, so far as is *reasonably practicable*, that its conduct does not cause adverse effects to the health and safety of individuals to whom the provider is delivering funded aged care services.

Reasonably practicable, is defined as what is, or was, at a particular time, reasonably able to be done, considering and weighing up all relevant matters. Relevant matters include the likelihood of an adverse effect occurring and separately the likely degree of harm from the adverse effect.

A breach of the duty carries the threat of significant fines. Further details on the provider duty are available on the Department of Health and Aged Care website.

Client centred care goes beyond avoiding harm; it encompasses kindness, encouragement, and an understanding of the unique challenges faced by clients at their different life stages. The benchmark has shifted and community expectations are high. As such, it is imperative to meet clients where they are, aligning services with their needs.

### CODE OF CONDUCT

The Code of Conduct applies to providers, aged care workers and responsible persons, including directors, if it is a condition of registration. It lists a series of principles these individuals must follow in carrying out their roles, including to:

- act in a way that treats people with dignity and respect, and values their diversity;
- act with integrity, honesty and transparency; and
- promptly take steps to raise and act on concerns about matters that may impact the quality and safety of care, supports and service.

For individuals a breach of the Code of Conduct carries the threat of fines and banning orders. Further details on the Code of Conduct are available on the Department of Health and Aged Care website.

Outlined below are key principles for aged care boards to embrace in navigating these challenges:

1. Clarify the organisation's purpose and the desired outcome for clients
2. Actively engage clients to amplify their voices
3. Place quality of care and desired client outcomes at the forefront of decision making
4. Rethink care and clinical governance
5. Establish effective governance and board composition practices
6. Promote a culture that attracts people with the required skills and a mindset for improvement

# 1. Clarify the organisation's purpose and the desired outcome for clients

At its core, the organisation's purpose should set clear expectations for what it hopes to achieve for its clients. The purpose should be consistent with the Statement of Rights and provider duty obligations under the Act. The Statement of Rights obligation is centred on the fundamental rights of individuals seeking and receiving funded aged care, ensuring their dignity, privacy and autonomy in receiving safe aged care services. It is a condition of registration for providers to demonstrate an understanding of the Statement of Rights. The provider duty requires the provider to ensure, so far as is reasonably practicable, that its conduct does not cause adverse effects on the health and safety of individuals receiving its services.

The obligations in the Act clearly set a benchmark for providers that goes beyond basic care. In the words of the Royal Commission, care should "enable older people to continue to find hope, enjoyment, and meaning, as far as possible, at all stages of their life and regardless of poor health or physical or cognitive impairment". A critical benchmark for any aged care board is their confidence in the quality of the services being provided to clients.

Poignant questions that every director should reflect upon include: Are clients thriving under our watch? Would we accept the standard of care for ourselves or our loved ones? What does high-quality aged care look like in 5, 10, 20 years?

Directors should consider using evidence-based tools to measure client health and wellbeing (for example, tools that measure quality of life, mood, physical health, social relationships and the ability to participate in decision making), directly linking performance measures to achievement of client objectives. This requires a strategic approach that focuses on client quality of life. In practice this will differ by organisation depending on the needs of the clients and the services provided.

Having set clear expectations, the board's role is to continually test whether those expectations are understood and borne out by the client experience.

Open communication about the company's achievements, challenges and future plans contributes to fostering trust among clients, families and the broader community. Clients and their families have a keen interest in the organisation's approach to innovation in care practices, including the use of technology and research, as these decisions significantly impact their lives.

## GOVERNANCE RED FLAGS

- Board reports lack informative measures and indicators of care outcomes.
- No, or limited, remedial actions to address care deficiencies.
- An organisational and board culture that assumes that charitable or for-purpose providers can do no harm to clients.

## QUESTIONS FOR DIRECTORS

- Has the board worked with management to define key indicators of client care and outcomes?
- Has the board assessed the finance and workforce implications of reforms to residential care and home care and what impact this will have on clients?
- How do we assess the efficacy of our service in achieving desired client outcomes?
- Does management demonstrate a solutions focused mindset of improving client care and outcomes?

## 2. Actively engage clients to amplify their voices

Active engagement goes beyond passively listening to clients, their families and their advocates. At the core of any successful aged care service is the principle that those receiving the care should have a voice in how that care is designed and delivered. By actively involving clients, the organisation not only empowers them but also taps into a valuable source of firsthand insights and feedback.

The strengthened Aged Care Quality and Safety Standards come into effect on 1 July 2025.<sup>1</sup> They require providers to encourage and support consumers in providing feedback and making complaints about care, as well as involving them in the development, delivery, and evaluation of care and services. Aged care providers also have an additional obligation to annually offer consumers and their representatives the opportunity to establish one or more consumer advisory bodies.<sup>2</sup>

There is no mandated size or structure for a consumer advisory body. Its size should reflect the consumer interest within the organisation with the goal to ensure that consumers are listened to and that the organisation continually adapts to meet consumer needs effectively.

Depending on the organisation's size and diversity, multiple consumer advisory bodies might be beneficial. For instance, the organisation may establish a consumer advisory body for each residential facility or, alternatively, a body that covers multiple facilities.

Providers also need to carefully balance the inherent complexity in the perspectives and needs of both clients receiving care (whose viewpoints might be impacted by conditions such as cognitive impairment) and their immediate families, who, while deeply involved, may have viewpoints that differ from those of the client.

Clear and open communication with consumer advisory bodies is important. Under the Act, feedback from consumer advisory bodies must be considered in board decision making about care quality. The board is required to explain in writing how the feedback was considered.

Many aged care organisations have been using consumer advisory bodies for some time. The real measure of effectiveness lies in how the organisation listens to the consumer advisory body's feedback and how genuinely this is woven into daily practice. It involves a culture where client voices are not only heard but also valued and acted upon.

Sincere engagement and purposeful action are what will authentically lift client experiences and outcomes. Better boards delve deeper and have a clear insight into the client's journey. A closer look at a client's day-to-day activities, including how they spend their time and whether they find value in the services provided, can be instructive. This is not to suggest that directors should involve themselves in operational matters. Rather, boards should task their organisations with making sure that clients are consulted and considered in various aspects of service delivery, including service planning, operational and capital investments, training, and quality improvement. In doing so, an emphasis on consumer diversity and inclusion is paramount.

<sup>1</sup> Guidance and resources for providers to support the Aged Care Quality Standards. Available [here](#).

<sup>2</sup> Aged Care Quality and Safety Commission, February 2025. Consumer advisory bodies. Available [here](#).

Directors should seek to understand the pain points in the client journey and how their organisation's strategy responds. This might be achieved through reporting on metrics and trend analysis, as well as planned visits to operations and meetings with clients and their families. In other words, identify barriers to client wellbeing and address them. Doing so requires boards and management teams to embrace changes in practice and attitudes.

Actively engaging clients and families is not just about improving services, it is about respecting and recognising the rights of those receiving care. When clients feel they are active participants in their care journey rather than passive recipients, it leads to increased satisfaction, trust and overall wellbeing. From the board's perspective this translates to better outcomes, and an enhanced reputation.

For more guidance, see **Figure 1** on the next page and AICD resources: ***Elevating Stakeholder Voices to the Board and Elevating the Client Voice to Boards.***<sup>3</sup>

### GOVERNANCE RED FLAGS

- Lack of board reporting on how client, including family members of clients, feedback has been considered and integrated into care delivery and client outcomes
- The board does not receive timely information on client critical incidents.
- A focus on initiatives without monitoring whether they have resulted in improved client outcomes.
- Lack of 'lessons learned' process post any major incident.

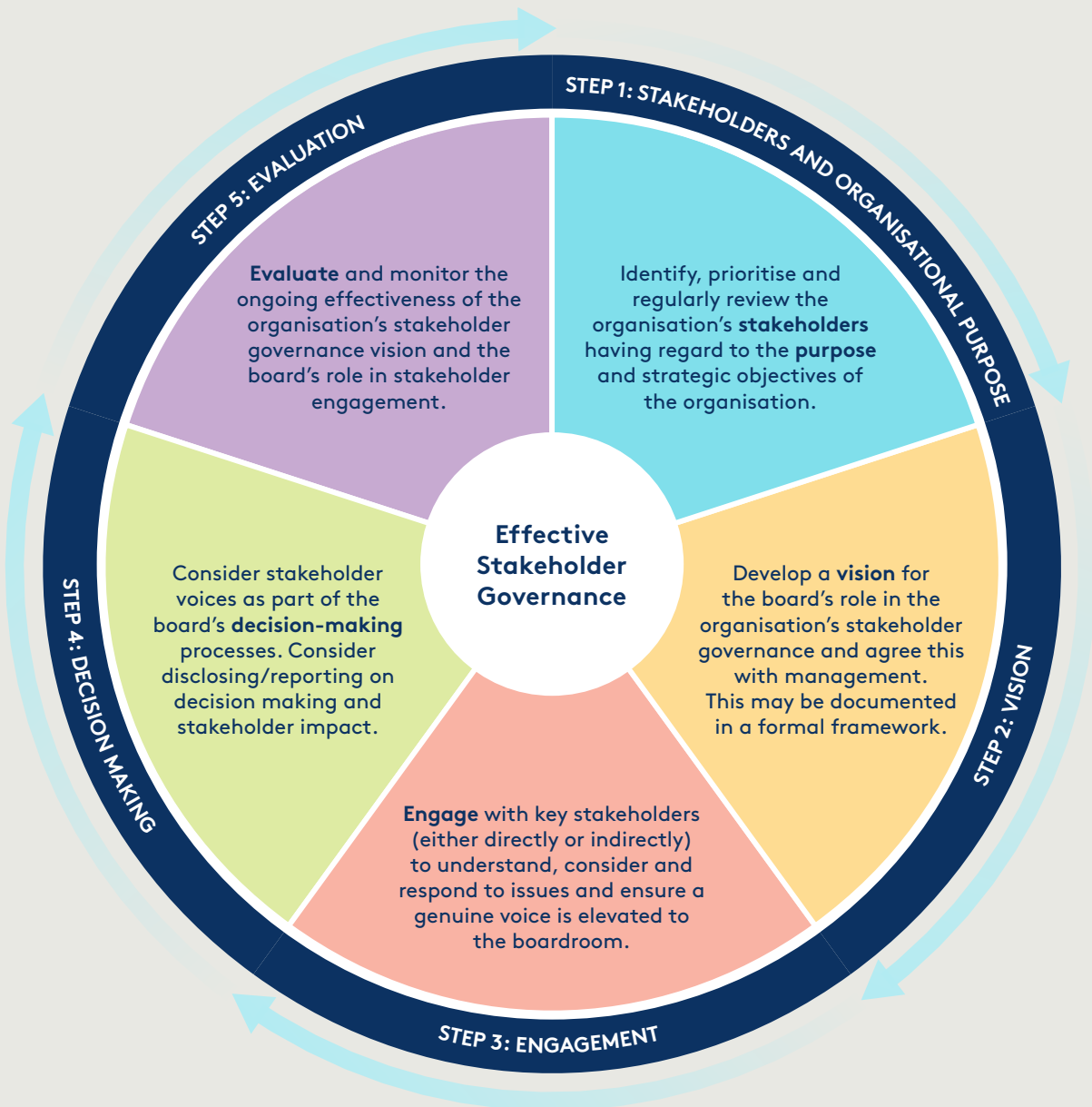
### QUESTIONS FOR DIRECTORS

- How does our organisation involve client voices in developing, designing and evaluating their care and services?
- What are the most common positive and negative components of the client experience?
- What evidence is there that feedback from clients is integrated into service improvements?
- Is there a culture of root cause analysis and continuous learning from incidents and complaints?

<sup>3</sup> AICD, April 2021, Elevating stakeholder voices to the board. Available [here](#).  
AICD, July 2024, Elevating the client voice to boards. Available [here](#).



FIGURE 1: Effective stakeholder governance



### 3. Place quality of care and desired client outcomes at the forefront of decision making

An effective aged care governance framework places the needs of consumers and quality of care at the centre of decision making. Resources should be strategically allocated towards identifying and adopting better care practices. This transcends the conventional metrics of operational efficiency and financial performance to encompass the health, dignity and quality of life of clients. Directors should actively seek evidence that the organisation is continuously refining its practices to consistently elevate the quality of care and client experience.

A strategic aged care board seeks to critically think about issues rather than accepting matters at face value. This requires looking beyond immediate challenges and anticipating the needs of the future. Risk management should also be viewed through a refined lens, with the emphasis on enhancing care outcomes rather than mere mitigation.

Clarifying the critical data points to make effective and informed decisions is essential. The amount of information collected has never been greater, but it is also more complex. The key for directors is finding insights through data and acting on them effectively. This can be achieved by using comparative and trend data for benchmarking performance, ensuring a clear understanding of where improvements are needed. Directors might also make enquiries about whether the organisation's frontline carers have the data they need available at the point of care. Site visits are also essential for directors, offering a vital opportunity to gain firsthand understanding of care, witness client outcomes and understand the risk environment.

Innovation and technology are likely to play a significant role in enhancing care. Directors may explore the potential of virtual services and home monitoring technologies for enhancing client care. In an age of rapid technological evolution, clients and their families expect aged care providers to integrate contemporary solutions that enhance their quality of life. A forward-thinking board seeks to identify the relevant technologies and their potential applications, implementing solutions that enhance client outcomes, while managing risks appropriately.

Under the Act,<sup>4</sup> residential care and home care providers must declare:

- statement signed by the governing body stating whether the provider did or did not comply with its duties under the aged care legislation;
- the most common kinds of feedback and complaints received by each service;
- key improvements made to the service quality;
- diversity information; and
- details of the membership of governing body including whether the provider has a majority of independent non-executive members and a person with clinical skills on the governing body.

Providing false or misleading information could lead to an offence under the **Criminal Code Act 1995** (Cth). Directors should therefore determine the evidence and audit processes necessary to confidently support their declarations.

#### GOVERNANCE RED FLAGS

- Over-reliance on financial or occupancy data as a measure of quality care.
- Lack of measurement on the effectiveness of initiatives to improve care.
- Lack of verification and/or external assurance process to support board sign-off on compliance.
- Board reporting is centred on retrospective analysis rather than proactive planning and execution.
- Board meetings do not have a sufficient focus on service delivery to clients.

#### QUESTIONS FOR DIRECTORS

- Do other aged care organisations have care initiatives that we could possibly learn from?
- What emerging trends might pose risks to achieving good client outcomes in the future?
- How are resources allocated to ensure that areas critical to client outcomes are sufficiently funded and supported?

<sup>4</sup> Department of Health and Aged Care, July 2024. Provider Operations Collection Form. Available [here](#).

## 4. Rethink care and clinical governance

The care and clinical framework, committee structures, board reporting and policies are foundational components to robust aged care governance and fulfilling obligations under the Act. Care and clinical governance should be seamlessly integrated into the organisation's overarching governance framework; it should not exist as an isolated effort. Care and clinical governance extend beyond the clinical aspects to encompass the overall wellbeing of clients. It recognises that quality of life is multi-dimensional and that factors such as dignity, respect and personal choice play a crucial role in wellbeing.

A quality care advisory body must include:<sup>5</sup>

- A member of key personnel who has appropriate experience providing clinical care;
- A staff member directly involved in the delivery of aged care, or a staff member directly involved in the delivery of clinical care (if the organisation provides clinical care); and
- A member who represents clients' interests (for example, a client or representative).

The quality care advisory body must provide a written report to the board at least once every six months and provide ongoing feedback to the board about the quality of the aged care provided. The board must consider the reports and feedback from the quality care advisory body when it is making decisions in relation to the quality of aged care provided. It must also advise the quality care advisory body in writing how it considers reports or feedback in board decision making. As described by the Aged Care Quality and Safety Commission "advisory bodies...support organisations to engage with skilled and experienced individuals who have insights and knowledge that can assist the organisation to identify solutions and creative ways forward."<sup>6</sup>

In meeting the legal requirement for a quality care advisory body, some aged care providers may choose to use an existing committee to fulfil the role of the quality care advisory body. The Aged Care Quality and Safety Commission recommends that board representatives should not be members of the quality care advisory body, as its role is to report to the governing body.

Therefore, it is likely that the quality care advisory body will sit separately from the formal board committee structure and will provide advice and information to inform decision making.

<sup>5</sup> Aged Care Quality and Safety Commission, June 2023. Quality care advisory body – fact sheet. Available [here](#).

<sup>6</sup> Aged Care Quality and Safety Commission, November 2022, Provider responsibilities relating to governance – Guidance for approved Providers. Available [here](#).



## THE ROLE OF THE QUALITY CARE ADVISORY BODY IN THE BROADER GOVERNANCE FRAMEWORK

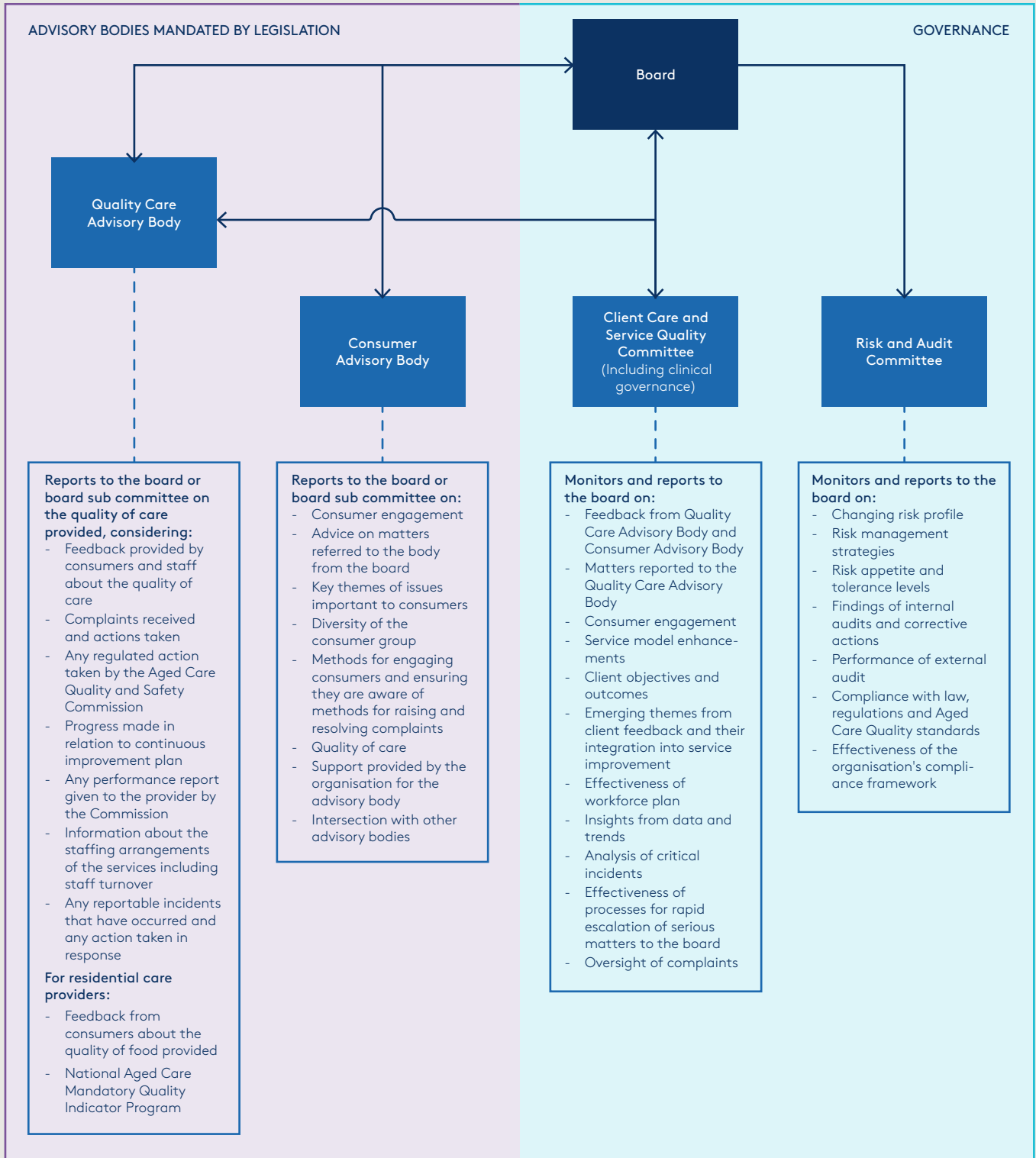
Meeting the compliance requirement for a quality care advisory body is just the beginning. Achieving better care and clinical governance practice requires a governance structure that drives a proactive approach to care and clinical governance with clear leadership and accountability. The board should seek to understand how their governance framework enables the organisation to deliver care that improves its clients' quality of life and how the framework provides early warning signals of any issues that require prompt attention.

Good care and clinical governance are not a one size fits all. The continuum of care across diverse providers and consumer needs means that some organisations deliver highly complex clinical care, while others provide less complex care. For example, a residential aged care facility with consumers with complex clinical needs will require different clinical governance to a home care provider that is caring for consumers with varying needs and risks. The board must satisfy itself that the systems are suitable for the services provided and for the consumers it serves. **Figure 2** illustrates a potential structure, demonstrating how the quality care advisory body might fit into the broader governance framework with appropriate information flows and reporting.

This structure serves as a flexible guideline. We recognise the diverse scale and scope of aged care providers and understand that smaller organisations may need to adapt these suggestions to fit their unique circumstances.



FIGURE 2: Advisory bodies in aged care governance framework



\* The provider is required to annually offer to set up a consumer advisory body

Meaningful reporting, by management and committees, is critical to enable the board to assess whether the organisation is delivering on its promises to clients. The board retains overall responsibility for quality and safety of care and therefore proper communication between the committees and the board is essential to make sure the key risks are understood and are being managed appropriately.

We recognise that for many providers, the risk is heightened as they operate at the intersection of health, aged care, and disability, where increasing client acuity adds complexity to care delivery and compliance. Structuring the board agenda to allow sufficient time for conversations about whether the organisation is achieving its desired client outcomes is key. Sound clinical governance considers how clients are proactively involved in the design of their care to achieve the lifestyle outcomes they are seeking, rather than a system which overmanages and medicalises ageing with deleterious impact on the client's lifestyle.

Boards should seek to define a clear risk appetite and tolerances on the quality and safety of services and request reporting on any areas that are outside of risk appetite. The board should establish a clear low-risk appetite for avoidable harm to clients due to deviations from or inadequate safety protocols. It should also set tolerances for maximising client choice, independence and self-determination whilst balancing this with safety outcomes. It is important to recognise that empowering clients with independence and choice – known as the dignity of risk – can sometimes increase the likelihood of incidents. The board's role, therefore, extends to encompassing a nuanced understanding of these dynamics, ensuring that clients' rights to choose and live independently is respected, within the realms of safe practice.

Common board care and clinical governance committee reporting metrics include:

- Measures and trends of client physical and emotional wellbeing;
- Self-assessments against aged care safety and quality standards;
- Client feedback and satisfaction;
- Quality Improvement (QI) Program indicators and initiatives;
- Aged Care Star Ratings for residential aged care;
- Serious Incident Response Scheme (SIRS) data;
- Occupancy rates;
- Staff competency assessments;
- Incidence of medication errors or discrepancies;
- Nature of client complaints; and
- Root cause analysis of serious incidents.

### GOVERNANCE RED FLAGS

- Client care and clinical governance framework is not regularly reviewed to assess its effectiveness.
- Lack of clear roles and responsibilities for safety and quality of client care.
- Lack of meaningful board reporting on quality of care performance and client outcomes.
- Recurring high risk audit actions that have not been addressed.
- Care and clinical governance is not considered regularly by the full board.

### QUESTIONS FOR DIRECTORS

- Does the board understand and provide effective oversight of the care and clinical governance framework?
- Is there a culture of root cause analysis and continuous learning from incidents and complaints?
- What are the priorities of our safety and quality plan?
- Is our organisation performing well against the National Aged Care Mandatory Quality Indicators?<sup>7</sup> If not, why not?
- Are there specific areas where adverse incidents are more prevalent?

<sup>7</sup> Quarterly Residential Aged Care Quality Indicators are published by the Australian Institute of Health and Welfare

## 5. Establish effective governance and board composition practices

The oversight of an aged care organisation demands significant dedication, time, and adeptness. It is important that there are effective governance processes in place and directors are prepared to play an active role on the board.

### CARE AND CLINICAL LITERACY

Board composition requires a collective understanding and commitment to client wellbeing. Directors should be equipped with appropriate skills and experience, and be attuned to what good quality and service looks like.

The Act<sup>8</sup> requires at least one board member to have experience in providing clinical care. It does not specify the clinical care experience required in a board director. The board should consider the clinical services provided by the organisation and seek relevant skills and experience in its director(s) for this role. Directors with clinical experience are expected to provide insight into clinical and care governance and offer expertise on key decisions affecting the quality and safety of care.

While mandating the inclusion of a director with clinical care experience on the board is commendable, it is equally crucial for the entire board to elevate their clinical literacy. It would be a misstep for the board to solely depend on the insights of the individual with clinical expertise.

The concept of care and clinical literacy is analogous to the concept of financial literacy. It is not expected that all board members are experts in care or clinical areas, but directors should have sufficient knowledge to proactively engage, ask pertinent questions, test management's responses and have a view regarding the quality and safety of care.

Directors should invest in enhancing their skills and knowledge on an ongoing basis.

### GOVERNANCE PRACTICES AND THE RESPONSIBLE PERSON DUTY

Boards and directors should review existing governance arrangements and practices and take steps to strengthen them where necessary. Enhancing governance practices will not only benefit oversight of the provider but assist in meeting regulatory obligations, including the provider and responsible person duties.

Key steps a board should take periodically include:

- Reviewing the quality and scope of board reporting to ensure it is providing the right information on the provision of care at the provider;
- Addressing any gaps in care and clinical governance frameworks and policies;
- Ensuring there are timely processes for the board to be informed of care and other risk failings and to take action to address any failings;
- Keeping up to date with regulatory obligations faced by the provider, particularly the Code of Conduct<sup>9</sup> and the Statement of Rights;<sup>10</sup>
- Considering whether greater 'eyes-on' oversight (e.g. physical inspections of facilities) are needed to understand the implementation of risk controls;
- Undertaking director training and education, including those focused on aged care service provision and regulatory requirements;
- Engaging external experts to review and provide assurance on the provider's operations, either in full or in part; and
- Ensure that board activities that are relevant to the due diligence requirement of the responsible person duty are appropriately recorded and documented.

8 Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022. Available [here](#)

9 Aged Care Quality and Safety Commission, January 2025. Code of Conduct for Aged Care. Available [here](#). Note: Note that the Code doesn't apply to the Commonwealth Home Support Programme (CHSP) or the National Aboriginal and Torres Strait Islander Flexible Aged Care Program (NATSIFACP).

10 Aged Care Quality and Safety Commission, January 2025. Statement of Rights. Available [here](#).

## SKILLS

The appropriate skills matrix for an aged care board will depend on the organisation's strategic objectives and will vary based on its size, structure and services provided to vulnerable people with complex needs. It may often include people with some of the following skills as well as experience of the aged care sector:

- Operational leadership
- Clinical governance
- Human rights
- Governance and legal
- Strategy
- Financial
- Workforce and culture
- Technology and data

As well as technical skills, directors should demonstrate attributes such as curiosity, self-reflection, listening and communication.

A diverse board is more than just a check box for good governance. It is a strategic advantage ensuring that the board's decisions are well rounded, informed and truly representative of the diverse community they serve.

## BOARD PERFORMANCE

Regular evaluations of the board's effectiveness are good practice, ensuring directors keep pace with the demands of the role and the sector.

All directors need to be knowledgeable about aged care quality and safety issues as well as the changes to legal obligations and this area should be a focus of regular professional development.

## GOVERNANCE RED FLAGS

- Directors are over-committed with other responsibilities.
- The board lacks the range of perspectives needed for effective oversight and decision making.
- Care is seen as a compliance and risk issue rather than central to purpose and strategy.
- Difficulty recruiting directors to address skills gaps.
- Deference to board members with clinical care experience.

## QUESTIONS FOR DIRECTORS

- Do we have the right skills mix on our board that understands the complexity of delivering care and services to older people?
- Does the board understand their clients' needs well enough to oversee and test management?
- Has our board and management received training on the regulatory obligations in aged care?
- Do we routinely assess our board's capabilities through a skills matrix review?
- Are we effectively managing our tenure and succession plan, which includes formulating a compelling board value proposition?
- How will we assess our performance as a board and continually improve?

## 6. Promote a culture that attracts people with the required skills and a mindset for improvement

A client centred culture of continuous reflection and improvement starts with the board. For many aged care organisations this means shifting entrenched assumptions, eliminating persistent stereotypes and fostering a progressive approach to client interactions. This is likely to require investment in developing a culture that promotes a growth mindset, equips staff with skills to handle change, and ensures psychological safety. It encourages an environment where all staff from frontline caregivers to senior management align their actions with the overarching goals of quality care and improved client outcomes. Such alignment supports consistency in care delivery, minimises discrepancies and helps in setting clear measurable benchmarks.

### SUITABILITY OF KEY PERSONNEL

The Aged Care Act<sup>11</sup> requires aged care providers to assess the suitability of their key personnel (which includes directors) at least once a year. In general terms, key personnel are those responsible for key aspects of the organisation's operations. As well as board directors, key personnel include managers, senior nurses and anyone else with "significant influence over the planning, directing or controlling of the activities of the approved provider."<sup>12</sup> The rules require a more detailed assessment criteria for key personnel and require the provider to report any changes in circumstance to the Aged Care Quality and Safety Commission within 14 days (a shorter timeframe than previously required). Failure to notify is an offence.<sup>13</sup>

### STAFF QUALIFICATIONS, SKILLS AND EXPERIENCE

The Act also requires the board to ensure that staff members:

- Have the appropriate qualifications, skills or experience to deliver the care or services provided by the approved provider.
- Are given opportunities to develop their capability to provide that care or those other services.

These responsibilities extend "to any person who is employed, hired, retained or contracted (whether directly or through an agency) to provide care or services."<sup>14</sup>

The workforce is the key asset for delivering safe and quality aged care services.<sup>15</sup> This includes volunteers who are also an essential part of the aged care system.<sup>16</sup>

Aged care boards need to satisfy themselves that their organisation's value proposition for employees is appropriately tailored to attract the right talent. This encompasses investing in relevant training, effective supervision, and a fair reward system.

It is essential that the organisational culture supports staff to feel confident and encouraged to report incidents, near misses, and opportunities for improvement. Often, the most valuable insights come from those who are directly involved in care delivery. By creating avenues for regular interaction with frontline staff, boards can gain a ground-level perspective on challenges, successes and areas of potential improvement.

<sup>11</sup> Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022

<sup>12</sup> Aged Care and Other Legislation Amendment (Royal Commission Response) Act 2022

<sup>13</sup> Aged Care Quality and Safety Commission Act 2018

<sup>14</sup> Section 63-1D(11)

<sup>15</sup> Care minutes and 24/7 registered nurses in residential aged care, May 2024. Available [here](#).

<sup>16</sup> Department of Health and Aged Care. About volunteering in aged care, May 2024. Available [here](#).

A culture focused on quality of care and client outcomes creates a ripple effect. It not only elevates the standard of care provided but also boosts staff morale as they witness the positive impact of their efforts.

Exception reporting, which highlights instances where staffing levels and continuity of care fall outside set parameters, serves as a key indicator for boards in evaluating the effectiveness of their workforce plan. For example, significant use of agency staff may require close attention, including ensuring that they are properly inducted, competent and able to meet client needs.

The board must remain vigilant to risks of worker exploitation and modern slavery. This is particularly important given the challenges posed by workforce shortages and reliance on temporary workers and a migrant workforce.<sup>17</sup> Finally, the board needs to appropriately probe management on compliance with relevant workplace law (e.g. wage underpayment), seeking external assurance where possible.

### GOVERNANCE RED FLAGS

- Lack of a robust system to assess and report on key personnel obligations.
- Chronic workforce shortages leading to long delays to recruit key frontline roles.
- Tolerance of behaviours which do not align with the stated organisation values.
- High staff turnover which might indicate a toxic work culture, mismanagement, or a lack of resources.
- Poor compliance training records.
- Client wellbeing and satisfaction not featured in role descriptions or key performance indicators for key personnel.

### QUESTIONS FOR DIRECTORS

- Are we compliant with our duties for key personnel and staff qualifications, skills and experience?
- Have we endorsed a workforce strategy suitable to deliver on our purpose?
- Are the workforce metrics in our board reports providing adequate line of sight to the key issues?
- How do we ensure adequate staffing levels and appropriate continuity?
- Do we adequately invest in our workforce training, development and career pathways?

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<sup>17</sup> A recent UK report highlighted an increase of over 600% in the number of modern slavery care sector cases from 2021 to 2022. Page 36. Available [here](#).

## Appendix A: Key aged care governance and regulatory obligations

Those involved in the governance of aged care providers, including directors, should understand the key regulatory requirements in the Act that determine how providers are managed and governed<sup>18</sup>. The following is a summary of several key requirements.

The detail on each of these requirements and the broader regulatory framework is contained in the primary regulation, supporting rules and guidance on the Department's website.

### 1. Registered provider duty (section 179)

A registered provider must ensure, so far as is reasonably practicable, that its conduct does not cause adverse effects to the health and safety of individuals to whom the provider is delivering funded aged care services.

Reasonably practicable, in relation to the duty, includes the following factors:

- the likelihood of the adverse effect concerned occurring;
- the likely degree of harm from the adverse effect;
- what the provider concerned knows, or ought reasonably to know, about ways of preventing the adverse effect;
- the availability and suitability of ways to prevent the adverse effect; and
- the rights of individuals under the Statement of Rights.

Note: Under the Statement of Rights, an individual has a right to exercise choice and make decisions that affect the individual's life, including taking personal risks.

### 2. Responsible persons duty (section 180)

Responsible persons (defined under section 12) must exercise due diligence to ensure the provider complies with the registered provider duty. Due diligence includes taking reasonable steps:

- maintaining knowledge of the providers' regulatory requirements;
- understanding the nature of the aged care services delivered by the provider and potential adverse effects on clients when delivering those services;
- ensuring the provider has appropriate resources and processes to manage adverse effects to the health and safety of clients;
- ensuring the provider has appropriate processes for receiving, reviewing responding to information regarding incidents and risks in a timely way; and
- ensuring the provider has processes for complying with any duty or requirement under the Act.

<sup>18</sup> Department of Health and Aged Care, January 2025. About the new Aged Care Act. Available [here](#).



### 3. Statement of Rights (sections 23 and 24)

The Statement of Rights are key principles under which funded aged care services are provided in Australia. Under section 24, providers are required to take all reasonable and proportionate steps to act in a manner compatible with these rights. Section 24 recognises that the rights of an individual receiving care should be balanced by the provider's other considerations, including the rights of aged care workers and other clients.

Key components of the Statement of Rights are that an individual has a right to the following:

- independence, autonomy, empowerment and freedom of choice;
- equitable access;
- quality and safe funded aged care services;
- privacy and protection of personal information;
- experience person-centred communication and raise issues without fear of reprisal; and
- ability to access advocates, maintain significant persons and stay socially connected.

### 4. Code of Conduct for Aged Care (the Code) (sections 145 and 174)

An aged care provider is required to comply with the Code and take reasonable steps to ensure that the aged care workers, and the responsible persons, of the registered provider comply with the Code. Separately, a responsible person is also required to comply with the Code under section 174.

The Code itself is contained within the Aged Care Rules. As of February 2025, the Code has eight elements of behaviour that providers, responsible persons and workers (including volunteers) must follow<sup>19</sup>. These are:

- Act with respect for people's rights to freedom of expression, self-determination and decision making in accordance with applicable laws and conventions.
- Act in a way that treats people with dignity and respect and values their diversity.
- Act with respect for the privacy of people.
- Provide care, supports and services safely and competently, with care and skill.
- Act with integrity, honesty and transparency.
- Promptly take steps to raise and act on concerns about matters that may impact the quality and safety of care, supports and services.
- Provide care, supports and services free from all forms of violence, discrimination, exploitation, neglect and abuse and sexual misconduct.
- Take all reasonable steps to prevent and respond to all forms of violence, discrimination, exploitation, neglect and abuse and sexual misconduct.

### 9. Provider governance (sections 152, 157, 158)

All approved providers must:

- ensure staff members have the necessary skills, qualifications and experience to perform their duties;
- ensure the majority of board members are independent non-executive directors with at least one with experience in providing clinical care; and
- establish a quality care advisory body and annually offer to establish a consumer advisory body.

<sup>19</sup> The Department of Health and Aged Care is consulting on the Rules (which include the Code) that sit under the new Act. Available [here](#).

## ACKNOWLEDGEMENT OF COUNTRY

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