



Guide to Audit of the Approved Provider's Compliance with the Prudential Requirements

On 1 January 2020, the regulatory functions of the Department of Health (the Department), transferred to the Aged Care Quality and Safety Commission (the Commission). As part of its Aged Care Financial Report (ACFR), an approved provider will submit its Annual Prudential Compliance Statement to the Secretary of the Department. A provider's prudential compliance, will be assessed by the Commission.

Objectives of this Guide

This Guide to the Audit of the Approved Provider's Compliance with the Prudential Requirements sets out:

- the expectations regarding the audit of an approved provider's Annual Prudential Compliance Statement (APCS), and
- information that auditors are expected to consider in the conduct of their audit.

Background

Effect of 1 July 2014 Legislative Changes

Significant legislative change occurred on 1 July 2014. Any reference to the 'Act' should be taken as a reference to the *Aged Care Act 1997* (as amended).

On 1 July 2014 the Disclosure Standard moved from the User Rights Principles 1997 to the *Fees and Payments Principles 2014 (No.2)* (the Principles).

Auditors Responsibility

The auditor's responsibility is to form and express an opinion on the approved provider's compliance with matters disclosed through the APCS.

The audit is to be conducted in accordance with the applicable Standards on Assurance Engagements (ASAE 3100 Compliance Engagements)¹, issued by the Auditing and Assurance Standards Board and with the requirements of the Department and the Commission as set out in this Guide. The audit is to be conducted so as to provide the auditor with reasonable assurance that the approved provider has complied with the matters disclosed through the APCS.

Requirement for Audit

To comply with the Disclosure Standard, approved providers are required to include with their APCS an audit opinion from a registered company auditor, or an auditor approved by

¹ Other AUASB Standards, including ASAE 3000 Assurance Engagements Other than Audits or Reviews of Historical Financial Information, may be applicable.

the Department, addressing the approved provider's compliance with Part 5 of the Principles. The APCS must be supported by an independent audit. The audit should focus on the approved provider's compliance with:

- the legislated obligations for managing refundable deposits, bonds and entry contributions, including meeting the statutory timeframes for balance refunds;
- the Prudential Standards (the Liquidity, Records, Governance and Disclosure Standards)², and
- the permitted uses of refundable deposits and bonds.

The audit report and opinion

Who May Conduct an Audit?

The audit must be performed by a registered company auditor³ or by a person who has been approved by the Secretary of the Department under section 56 of the Principles. The Auditor-General of a State or Territory is taken to be registered as an auditor.⁴

Only an approved provider may request that their auditor be approved to audit the APCS. Further information about use of an auditor other than a registered company auditor is provided in the APCS.

Scope of the Audit Opinion

It is expected that the auditor's opinion address the approved provider's compliance with the requirements of Part 5 of the Principles in the relevant financial year. The Principles require that the auditor's opinion⁵ addresses: 'whether the approved provider has complied with this Division (being Part 5 of the Fees and Payments) in the relevant financial year'.

It is expected that the audit report, including an audit opinion, will be issued in accordance with the Standard on Assurance Engagements ASAE 3100 Assurance Engagements Other than Audits or Reviews of Historical Financial Information issued by the Auditing and Assurance Standards Board.

Part 5 of the Principles specifies the matters to be disclosed in the APCS and therefore requires an audit opinion about all matters reported in the APCS.

Guidance on pages 10 and 11 sets out a selection of prudential requirements that are to be considered in the scope of the audit. The listing is indicative only and should not be considered as exhaustive or as a pro forma audit program.

It is not expected that auditors verify free text statements made by an approved provider in association with non-compliance disclosed in the APCS. However, the auditor should be satisfied that the statements are not inconsistent with the auditor's knowledge of the approved provider's operations.

² Part 5 of the Principles

³ Section 36(1) of the *Accountability Principles 2014*

⁴ Part 9.2, Section 1281 *Corporations Act 2001*

⁵ Section 56 (1) of the Principles

The Nature, Timing and Extent of the Audit Tests

Auditors will use their own professional judgement to determine the nature, timing and extent of audit testing to enable them to form, and express, an opinion about whether the approved provider has complied with Part 5 of the Principles.

Content of the Auditor's Report

The Disclosure Standard includes a requirement that the approved provider give a copy of the audit opinion to the Secretary within four months after the approved provider's financial year end, and to each resident who has paid a refundable deposit or bond and prospective residents on request. The approved provider should ensure that the auditor's report is addressed as follows:

To [name of approved provider] and the Secretary, Department of Health

The auditor's opinion must state, as applicable, that:

The approved provider has/has not complied, in all material respects, with the requirements of Part 5 of the *Fees and Payments Principles 2014 (No.2)* (as amended), for the period 1 July 20XX to 30 June 20XX.

Note:

This audit opinion template is taken to be a statement that complies with subsection 55(f) of the Principles. The audit opinion templates are provided as a guide only. Auditors may draft their own opinions.

For further information please refer to the [Annual Prudential Compliance Statement \(APCS\)](#)

(Source: <https://agedcare.health.gov.au/programs-and-services/residential-care/annual-prudential-compliance-statement-apcs>)

The approved provider should ensure that the auditor includes on the report:

- the auditor's ASIC Auditor Number, or
- where the Secretary has granted the approved provider approval to engage an auditor who is not a registered company auditor, the decision number under section 56(2) of the Principles.

In accordance with the applicable Australian Auditing and Assurance Standards the auditor should **include in their report relevant information about the nature and scope** of the audit testing that enabled them to form an opinion about whether the approved provider complied with Part 5 of the Principles during the provider's financial year.

An auditor's report that does not have the required content will be referred to the provider for correction and resubmission to the Department.

Materiality or Significance of Non-Compliance

The Commission will assess the APCS to determine what regulatory action, if any, may be necessary in relation to non-compliance reported by the approved provider or its auditor.

Auditors are not required to comment on, or give an opinion about, whether non-compliance identified during the audit represents a material prudential risk to the security of refundable deposit or bonds. However, the auditor may choose to give such an opinion.

Information to Assist Auditors

The following sections of this guide comprise selected information about prudential compliance. The information is provided to assist auditors in developing their audit programs and is not meant to be an exhaustive list of all required audit procedures.

Compliance with Rules for Refunding Refundable Deposit, Bond and Entry Contribution Balances

Section 52P-1 of the Act specifies the timeframes within which refundable deposit and bond balances must be refunded. The refund of entry contribution balances must be made in accordance with the formal agreement between the approved provider and the resident.

The Act stipulates that interest must be paid on outstanding refundable deposit or bond balances⁶, being:

For residents leaving care in the period ⁷	Base Interest Rate	Maximum Permissible Interest Rate
1/06/2020 - 30/06/2020	2.25%	4.89%
1/04/2020 - 31/05/2020	3.00%	4.89%
1/01/2020 - 31/03/2020	3.00%	4.91%
1/10/2019 - 31/12/2019	3.00%	4.98%
1/08/2019 - 30/09/2019	3.00%	5.54%
1/07/2019 - 31/07/2019	3.75%	5.54%

- Base Interest Rate (BIR) – must be paid on the refundable deposit or bond balance from the day after the approved provider ceases to provide care up to and including until the date of the refund, if paid within the legislated timeframe (the statutory refund period), and
- Maximum Permissible Interest Rate (MPIR) – must be paid on the refundable deposit or bond balance from the day after the end of the statutory refund period up to and including day the balance is repaid.

For entry contributions, the MPIR is payable on late refunds made after the day on which a refund was due under the formal agreement between the approved provider and the resident.

BIR and MPIR (if applicable) must be paid to the resident the day the refund is made.

The prescribed interest rates may be varied from time to time. Further information about [current and historical interest rates](#) can be found on the Department website at:

⁶ Section 68 of the Fees and Payments Principles

⁷ The BIR to be used in calculating interest is the rate applicable on the day after the resident's departure or, if the person has died, the rate applicable on the day after the approved provider is shown a copy of probate or letters of administration.

(<https://agedcare.health.gov.au/aged-care-funding/refundable-deposit-balance-and-accommodation-bond-balance-refund-interest-rates>)

Assessing Compliance with the Four Prudential Standards

A key element of assessing compliance with the **Liquidity Standard**⁸ is examining whether the approved provider has sufficient liquidity to meet expected refundable deposit, bond and entry contribution balance refunds over the next 12 months. As part of the Liquidity Standard requirements, the approved provider must have a written Liquidity Management Strategy (LMS).

In assessing compliance with the Liquidity Standard, it is expected that the auditor will have regard to factors such as:

- whether an LMS exists (i.e. the auditor should sight a copy)
- the overall financial position of the approved provider as set out in its most recent audited financial statements, and
- the LMS and the minimum level of liquidity identified as necessary to meet refund obligations for refundable deposit, bond and entry contribution balances, taking into account the nature of the approved provider's operations.

In developing its LMS and determining its minimum level of liquidity, an approved provider must be able to identify the factors that it has taken into account. The types of factors that an approved provider could consider incorporating in its LMS include, but are not limited to the:

- historic pattern of refundable deposit and bond balance refunds;
- characteristics of the residents for whom the approved provider cares that may influence the timing of refundable deposit and bond balance refunds (e.g. the level of the care needs of residents, age, sex, length of time spent in care);
- average value of refundable deposit and bond balances currently held by the approved provider; and
- expected number and amount of refundable deposit or bonds that will be paid by new residents.

To ensure that an approved provider can refund refundable deposit, bond and entry contribution balances as they fall due, it is important that the minimum level of liquidity for an approved provider is maintained in readily accessible forms. Auditors should also check that the LMS includes the form/s in which the approved provider will maintain the minimum level of liquidity and be assured that it is held in a form that is readily accessible.

The **Records Standard**⁹ requires approved providers to maintain a refundable deposit register which includes information about their holdings of refundable deposit, bonds and entry contributions. In assessing compliance with the Records Standard, the Department expects that auditors would have regard to issues such as:

- whether the refundable deposit register covers all items required by Section 45 of the Principles;

⁸ Section 43 of the Fees and Payments Principles

⁹ Section 45 of the Principles

- the systems and processes the provider has in place to record and report individual refundable deposit, bond and entry contribution balances; and
- the reconciliation of the refundable deposit register with the receipts, refunds and liabilities for refundable deposits, bonds and entry contributions reported in the financial records.

The **Governance Standard**¹⁰ requires approved providers to develop effective governance systems to ensure refundable deposit and bonds are only used for permitted uses and are refunded in accordance with the Act.

In assessing compliance with the Governance Standard, it is expected that auditors would have regard to issues such as whether:

- a written governance system that complies with Section 49 of the Principles exists (i.e. the auditor should sight a copy);
- it allocates responsibilities to the key personnel of the approved provider in relation to the management of refundable deposit and bond balances held by the approved provider;
- it includes monitoring and controlling any delegation or outsourcing of the allocated responsibilities;
- it includes reporting mechanisms for the allocated responsibilities that ensure the key personnel who are responsible for the executive decisions of the approved provider can effectively monitor and control the use of refundable deposit and bond balances;
- it has processes to ensure that key personnel who are allocated responsibilities, and persons to whom responsibilities are delegated or outsourced, are aware of the requirements of the Act and the Principles in relation to refundable deposit and bonds; and
- it has processes for detecting, recording and addressing any failure to comply with those requirements.

If the approved provider invests refundable deposit and bonds in any permitted financial products¹¹ other than deposits with an authorised deposit-taking institution made available in the course of its banking business, it must implement and maintain a written investment management strategy that sets out:

- the approved provider's investment objectives;
- the approved provider's assessment of the level of risk to the approved provider's ability to refund refundable deposit and bond balances in accordance with the Principles;
- a strategy for achieving the investment objectives while ensuring that the approved provider is able to refund refundable deposit and bond balances in accordance with the Principles;
- the asset classes the approved provider may invest in;
- investment limits for each asset class that are consistent with the investment objectives; and

¹⁰ Section 49 of the Principles

¹¹ Financial products for paragraph 52N-1(3) of the Act are set out in section 50(1)(a) of the Principles

- key personnel with appropriate skills and experience who are responsible for implementing the investment management strategy.

The investment management strategy must be approved by the key personnel who are responsible for the executive decisions of the approved provider.

An approved provider must:

- ensure that any investment of refundable deposit and bonds is in accordance with the approved provider's investment management strategy;
- ensure that the approved provider's investment management strategy is up to date and complies with the requirements; and
- modify or replace its investment management strategy if the approved provider becomes aware that the investment management strategy no longer complies with the requirements.

In assessing compliance with Governance Standard responsibilities where an IMS is needed, it is expected that auditors would have regard to issues such as:

- whether the approved provider uses refundable deposit and bonds in such a way that requires it to have an IMS;
- whether an IMS exists (i.e. the auditor should sight a copy); and
- whether refundable deposit and bonds have been invested in accordance with the IMS.

The **Disclosure Standard**¹² requires approved providers to provide information about their financial position and compliance with prudential obligations to current residents who have paid refundable deposit or bonds, prospective residents, and the Department. The Disclosure Standard requires approved providers to provide particular information to residents at different times and annually for the Department.

In assessing compliance with the Disclosure Standard, it is expected that auditors would have regard to the following:

On entry, within seven days of entering into accommodation agreements, approved providers must provide the resident or their representative with:

- a copy of the accommodation agreement; and
- a written statement explaining what other information is available on request.

On request, approved providers must also provide residents, prospective residents or their representatives with the following information:

- a summary of the permitted uses for which refundable deposit and bonds have been used by the approved provider during the previous financial year;
- information about whether the approved provider has, during the previous financial year, complied with the Act;
- information about the number of refundable deposit and bond balances that were not refunded in accordance with the Act or, for entry contributions, a formal agreement;

¹² Section 57 of the Principles

- the most recent audited accounts or, if the service is part of a broader organisation, the statement relating to the aged care component;
- (if the resident has already paid a refundable deposit or bond) a copy of the resident's entry in the refundable deposit register, current at the time of the request;
- a summary of the permitted uses that refundable deposit and bonds have been used for in the previous financial year;
- if refundable deposit and bonds have been invested in financial products other than through authorised deposit-taking institutions, a statement explaining the approved provider's investment objectives and the asset classes they may invest in; and
- information about whether the approved provider has complied with the prudential requirements and permitted uses for refundable deposit and bonds.

The information must be correct at the time the request was made.

Annually (for existing residents), within four months of the end of their financial year, approved providers must provide each resident or their representative with:

- a copy of the resident's entry in the refundable deposit register; and
- a written statement explaining what other information is available on request.

In testing compliance with the Disclosure Standard, it is not expected for auditors to contact residents or residents' representatives to confirm that relevant disclosures have been made to them.

Testing of the approved provider's records and systems, including review of files and correspondence, will provide sufficient evidence of compliance for the Commission's purposes.

- If the approved provider met the disclosure requirements to residents within the reporting period, they should have disclosed the information required to residents prior to or on 31 October of that period.
For example: to meet the annual disclosure requirements to residents in 2019-20, the approved provider should have disclosed the information required to residents prior to or on 31 October 2020.
- **APCS refundable accommodation payments** - information outlined here may need to be checked and the APCS returned to the approved provider for correction before being resubmitted to the Department.

COMPLIANCE WITH THE PROVISION OF OTHER CARE AND SERVICES FEES

The Act and the *Aged Care (Transitional Provisions) Act 1997* (the Transitional Provisions Act) provide a complete scheme of fees that aged care providers can charge to residents. Relevant provisions are found in Division 52C and Division 56 of the Act and Division 58 and Division 57 of the Transitional Provisions Act.

It is a provider's responsibility to ensure that any fees they charge to residents are consistent with aged care legislation.

A provider cannot charge a resident for:

- registering the resident for a place on a waiting list

- preparing the resident agreement
- preparing invoices and statements for the resident's care
- Residents Handbook
- informing the resident of meetings
- booking fees,
 - excludes recipients of residential respite care
- translated material in the resident's preferred language explaining basic matters such as resident rights and responsibilities, complaints processes, food menus, and daily activity program.

A provider can charge a resident for:

- management of a resident trust account where such arrangements are voluntary
- the resident must have the choice to handle their finances without placing their money in a trust account with the provider.

Further Information

Refer to the link for further information about the [Aged Care Act 1997](#), the [Fees and Payments Principles 2014 \(No.2\)](#).

Information about [Compliance information \(Non Compliance Notices and sanctions\)](#) is available at: My aged care website.

If you want to contact the Commission about the prudential requirements, this guide or the APCS please e-mail: prudential@agedcarequality.gov.au

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Box 1: Selection of Prudential Requirements that should be considered in the Scope of the Audit

- (i) **Refundable deposits, bonds and entry contributions held**
- the number and value of refundable deposit, bond and entry contribution balances held by the approved provider at the end of the financial year.
- (ii) **Refund of refundable deposit, bond and entry contributions**
- the total number of refundable deposit and bonds or entry contributions not refunded within the legislated timeframe.
- (iii) **Allowable deductions from refundable deposit, bond and entry contribution balances**
- the total amount deducted from refundable deposit, bond or entry contribution balances in accordance with section 52J-7 of the Act.
- (iv) **Compliance with the Liquidity Standard**
- the existence of an LMS;
 - the amount required to ensure that the provider has sufficient liquidity to refund refundable deposits, bonds and entry contributions as they fall due in the following 12 months (the minimum level of liquidity);
 - the factors that the provider had regard to in determining the minimum level of liquidity;
 - the form(s) in which the provider will maintain the minimum level of liquidity; and
 - the provider maintained the minimum level of liquidity as set out in their Liquidity Management Strategy for the entire financial year.
- (v) **Compliance with the Records Standard**
- whether a refundable deposit register that includes all the information required by section 45 of the Fees and Payments Principles for refundable deposits, bonds and entry contributions, was maintained in accordance with the Records Standard.
- (vi) **Compliance with the Governance Standard**
- whether a written governance system is implemented and mechanisms are in place to ensure it is kept up to date;
 - whether procedures are in place to ensure responsible key personnel can monitor and control the use of refundable deposits and bonds; and
 - whether (if applicable) the investment management strategy is approved by the key personnel who are responsible for the provider's executive decisions.
- (vii) **Compliance with the Disclosure Standard**
- whether the provider has given residents who have paid refundable deposits or bonds and prospective residents, and/or their representatives, information required by the Principles; and
 - whether any information disclosed in the APCS submitted for previous financial year is known to be incorrect.
- (viii) **Compliance with charging requirements**
- whether room prices were publically available on the 'My Aged Care' website, in written materials given to prospective residents and on the providers website (if applicable) prior to accommodation agreements being entered into.

- whether **accommodation agreements** entered into with all residents who paid a **bond** during the financial year within 21 days of entry into care or within 28 days for those that paid a **refundable deposit**.

(ix) Compliance with refunding responsibilities

- whether all refundable deposit and bond balances were refunded as, and when, they fell due as required in section 52P-1 of the Act;
- whether the correct amount of interest was paid at the time and to the person as required in section 68 of the Fees and Payments Principles;
- whether all entry contribution balances were refunded as, and when, they became payable in accordance with each formal agreement; and
- whether the correct amount of interest was paid in the time and to the person as required in section 52P-3 of the Act.

(x) Other compliance requirements

- whether the approved provider has complied with Division 1 of Part 4 of the Fees and Payments Principles (Accommodation agreement requirements).