



Catholic Health Australia – Submission on Stage 2c Release of Rules on funding and regulation

March 2025

Catholic Health Australia

www.cha.org.au

Catholic Health Australia (CHA) is Australia's largest non-government grouping of health, community, and aged care services. CHA Members provide approximately 12 per cent of all aged care facilities across Australia, in addition to 20 per cent of home care provision.

Our members account for over 15 per cent of hospital-based healthcare in Australia and operate hospitals in each Australian state and in the Australian Capital Territory, providing about 30 per cent of private hospital care and 5 per cent of public hospital care in addition to extensive community and residential aged care.

CHA not-for-profit providers are a dedicated voice for the disadvantaged which advocates for an equitable, compassionate, best practice and secure health system that is person-centred in its delivery of care.

Executive summary

Catholic Health Australia (CHA) is Australia's largest non-government grouping of health, community, and aged care services accounting for approximately 12 per cent of aged care facilities across Australia, in addition to around 20 per cent of care provision in the home. Catholic aged care providers have a vital interest in working with the Australian Government to ensure the sustainable provision of aged care and support services for older Australians meet community expectations of safe and quality of care.

CHA appreciates the opportunity to provide input into Stage 2c Release of the Rules relating to funding and regulation of aged care services. We look forward to working with the Department of Health and Aged Care during the consultation process to ensure the Rules achieves its intended outcomes. Our goal is to ensure it fully supports a high-quality and safe aged care system for all Australians irrespective of their wealth or geography.

Overall CHA is supportive of the drafted provisions relating to the Grantee Code of Conduct, the Register of banning orders, and the method for working out recoverable amounts. This submission focuses on the opportunities for application of lessons learnt from existing mechanisms as part of the implementation of the new Act.

Key observations related to this release of the draft Rules articulated in our submission include:

1. **Grantee Code of Conduct:** CHA and its members appreciate the broad applicability of the Grantee Code of Conduct and notes its similarity to the Aged Care Code of Conduct.
2. **Register of banning orders:** CHA and its members note the opportunities for improving the existing register as part of the implementation of the new Act. As part of this, key considerations around incorporation of additional details, whilst balancing with privacy considerations, are also articulated in this submission.
3. **Recoverable amounts:** CHA and its members welcome the clarity and transparent offered by the method for working out recoverable amounts.

Submission

CHA is supportive of the drafted provisions relating to the Grantee Code of Conduct, the register of banning orders, and the method for working out recoverable amounts.

Section 1: Grantee Code of Conduct

CHA and its members do not have any issues with the drafted provisions relating to the Grantee Code of Conduct. It is the view of CHA and its members that the expected behaviours and descriptors set out in the draft Rules reflect the Aged Care Code of Conduct. While this may appear duplicative, CHA members believe that the Grantee Code of Conduct is bridging a gap in legislation, particularly for organisations that are not required to adhere to the Aged Care Code of Conduct but undertake activities within the scope of S265(2) of the *Aged Care Act (2024)*. As CHA members have incorporated the Aged Care Code of Conduct as part of their organisations' code of conduct, which is also part of employee and subcontractor agreements, it is the understanding of CHA and its members that would not be issues in adhering to the Grantee Code of Conduct.

Section 2: Register of banning orders

Information contained in the register

In the main, CHA and its members believe that the drafted provisions relating to the register of banning orders (the register) provides sufficient protection over the privacy rights of individuals to their personal information, as well as ensuring that care recipients can be appropriately protected from any malicious behaviour. CHA and its members agree with the broad scope of the provisions set out in Section 507 in the Rules as it enables the Commissioner to determine what is "reasonably necessary" to identify an individual or entity recorded on the register.

Given ongoing concerns regarding shortage of aged care workers, careful consideration needs to be given to what constitutes 'reasonably necessary' information. It is important that the information contained in the register should not misidentify an individual, as this would have severe consequences for those seeking to work in aged care. For example, individuals of a given demographic may reside in similar suburbs, which means that in practice, there may be a greater proportion of individuals with the same last name in one suburb or locality. CHA recommends that additional personal information, such as a persons' month and year of birth could be recorded in the register to mitigate the risk of misidentification. Alternatively, CHA recommends that the Commission adopt a similar approach to the Australian Health Practitioner Regulation Agency (APHRA)'s register of health practitioners, whereby specific details about a practitioner are recorded.

Recommendation 1: In relation to the register of banning orders:

- a. Incorporate additional information such as a persons' month and year of birth could be recorded in the register to mitigate the risk of misidentification.
- b. Alternatively, adopt a similar approach used by the Australian Health Practitioner Regulation Agency (APHRA)'s register of health practitioners in considering the information recorded about an individual.

Treatment of individuals compared to entities

CHA and its members welcome the provisions in S507 distinguishing the treatment of individuals from entities in relation to the access and corrections made to information contained in the register. This is because the relative impact an entity can have on an older people is greater than an individual, and therefore, should be treated with more stringent controls to ensure appropriate protections are in place for older people.

Moreover, CHA and its members agree that the provision, as set out in S507-25 (4), of a 28 period for the entity to provide written comments on the matter is reasonable and fair. This provision appropriately balances the commitment to thorough investigation of any matters relating to the register, while providing the entity a fair opportunity to communicate their position on such matters.

Implementation of the register

There is an opportunity to refine the register to enable efficient and effective use of the information contained in the register. It is the experience of CHA and its members that individuals recorded on the register are not listed alphabetically and is instead listed in the order of the date with which the record was made. As such, there is an opportunity to update the approach to managing the register upon the implementation of the new Act, so that it is more user-friendly to achieve its intended purposes.

Recommendation 2: In relation to the implementation of the register of banning orders, refine the register to ensure that it is user-friendly and can be utilised more effectively.

Section 3: Recoverable amounts

CHA is supportive of the method of working out recoverable amounts as set out in the draft Rules. It is the experience of CHA and its members that miscommunicated amounts between the provider and Services Australia (SA) tend to result in providers having been underpaid, as opposed to overpaid and requiring repayments. This is especially true given that the premise of the funding of aged care services, such as in Support at Home, draws down an individuals' account when services have been used. As such, there is limited scope around the applicability of this repayment method.

CHA members also note that this method could be more applicable for the treatment of grant funding as opposed to provision of funded aged care services. For example, when a grant is provided to a Commonwealth Home Support Programme (CHSP) provider, there is typically a timeframe in which certain criteria relating to the grant funding will need to be expended. As such, there is potential for the provider to not expend the full amount of the grant during that timeframe, and therefore incur a debt to the Government.

In the main, CHA and its members welcome the clarity and transparent offered by the method for working out recoverable amounts. While the method itself may not be consistently applicable due to the nature of a registered providers' operations under the new Act, the provisions in S523-5 reiterate the Government's commitment to ensuring transparency in funding mechanisms across all areas of aged care service operations.