

A statement from the Aged Care Quality and Safety Commission:

- 1. In regards to Jeta Gardens, after the performance report dated 23rd of September which found deficiencies and non-compliance regarding COVID outbreak preparedness, what follow ups did the Commission do with the facility between that date and the start of the COVID outbreak at the home in January? Did anyone from the Commission visit the home between the assessment contact in August and the start of the January COVID outbreak?**

On 20 October 2021, the Commission issued a Non-Compliance Notice to the approved provider of the service, Jeta Gardens Aged Care (Qld) Pty Ltd (the provider), following the findings of non-compliance identified at the service during a targeted on-site assessment contact on 10-11 August 2021.

On 29 November 2021, the provider agreed to an undertaking to remedy the non-compliance at the service (by 31 January 2021). In late December, the service experienced COVID-19 cases and subsequent lockdown. While the Commission does not visit services during an active outbreak, we have been engaged with and monitoring the service through outbreak management meetings, also attended by the Queensland Department of Health and the Australian Government Department of Health (the Department), and through direct engagement with the provider.

On 2 February 2022, in response to escalating concerns about the risk to residents at the service, the Commission issued the provider with a Notice to Agree. Under the Notice to Agree, the provider must appoint and retain an independent adviser for a period of four months to assist it to comply with its responsibilities (an advisor was appointed on 3 February 2022) and provide training for its staff, including in the area of best practice infection prevention and control. The provider must also participate in regular meetings with the Commission and ensure regular written reports are prepared and submitted, as part of the Commission's close monitoring of the provider's progress towards achieving compliance. Information on the notice is published on the MyAgedCare website [here](#).

- 2. Did Jeta Gardens provide the Commission with any information regarding addressing the COVID preparedness deficiencies post the 23rd September report? If so, when and was the Commission satisfied that the home had addressed the deficiencies?**

As part of the Non-Compliance Notice issued on 20 October 2021, the provider was required to respond with a written submission within a set time period on proposed actions to remedy the identified non-compliance.

On 19 November 2021, the provider submitted a Plan for Continuous Improvement to the Commission with supporting documents, evidencing the service's outbreak management plan, workforce arrangements, education and training, policies, procedures and frameworks. The Commission considered the provider's submission and, at that time, was satisfied that the proposed actions were appropriate to remedy the non-compliance. On 29 November 2021, the Commission issued a Notice to Remedy that required the approved provider to give a written undertaking to remedy the identified non-compliance.

On 1 December 2021, the approved provider signed the undertaking to remedy the non-compliance at the service by 31 January 2022. On 1 January 2021, an outbreak was declared at the service. On 2 February 2022, the Commission escalated its regulatory actions and issued a Notice to Agree, following concerns in relation to the provider's response to the outbreak.

3. **In regard to Lark Ellen Aged Care home, according to the home it couldn't source a surge workforce during its outbreak but was slapped with a sanction for shortcomings in this area. Why did the Commission decide a sanction was warranted considering continued staff furloughing and shortage issues right across the industry?**

and

4. **Lark Ellen is now closing its doors. Considering the home's history of non-compliance and sanctions, does the Commission believe this is the most appropriate decision in regard to resident wellbeing and care?**

The *Aged Care Act 1997* requires aged care providers to provide safe and quality aged care at all times, in accordance with the Aged Care Quality Standards (the Standards). The Commission regulates the sector using these Standards (among other legal provisions).

As part of their obligations, all aged care providers must have a comprehensive, up to date and fully rehearsed outbreak management plan. This plan should include contingency arrangements to ensure a skilled and qualified workforce is maintained in the event of an outbreak, sufficient to deliver and manage safe, respectful, and quality care and services, which meet the Standards.

Aged care services whose workforce has been temporarily reduced through COVID-19 infection are expected to activate their contingency plans and do everything possible to minimise the impact on their consumers. If a provider cannot demonstrate to the Commission that it has made and continues to make all reasonable efforts in this regard, we take regulatory action that is appropriate and proportionate to the level of assessed risk.

Lark Ellen Aged Care has a history of non-compliance and, at the time that the closure of the service was announced by the provider (Apex Software Pty Limited), was non-compliant with seven of the eight Aged Care Quality Standards.

Questions relating to surge workforce provisions should be directed to the Department.

5. **Why have there been fewer site visits to homes this financial year?**

In the period July 2021 to January 2022, the number of site visits undertaken has been affected by a number of factors.

Two-thirds of all residential aged care services in Australia are located in NSW and Victoria, which are the two jurisdictions which experienced extended public health-ordered lockdowns in the second half of 2021. Visits to aged care services in these two jurisdictions have been particularly impacted (and in other states and territories to varying extents) by closed borders preventing inter-state travel of Commission staff, strict lockdown and quarantining requirements applying to local communities and residential aged care services that limited intra-state travel by Commission staff, and suspected and confirmed COVID-19 exposures and outbreaks in residential aged care services.

With respect to the last factor, as previously advised, over 2,000 residential aged care services in Australia have experienced an outbreak during the pandemic, a large proportion of which have occurred during the Omicron wave. Consistent with public health advice, the Commission does not visit services during an outbreak because it would distract from the vital public health response that is the top priority for a service in this situation.

6. How many aged care homes have been granted "exceptional circumstances" re-accreditation without a site visit in 2020, 2021 and 2022?

Where residential reaccreditation site audits have needed to be deferred during the pandemic, the Aged Care Quality and Safety Commission (the Commission) works with the Department of Health to ensure continuity of accreditation until such time that the Commission can visit the service to conduct a reaccreditation site audit. This is done via an 'exceptional circumstances' determination, issued by a delegate of the Australian Government Department of Health (the Department).

Importantly, the Commission can and does visit residential aged care services for reasons other than a site audit. A site audit is specifically for the purposes of assessing a service for accreditation or reaccreditation. The Commission also visits residential aged care services where they are assessed as higher risk. These site visits are for monitoring purposes, or to assess performance.

It is also the case that the Commission maintains monitoring surveillance of all services subject to an exceptional circumstances determination. A service under such a determination can (and a number do) have an unannounced site audit or assessment visit within the exceptional circumstance period.

As at 31 January 2022, there are 817 services operating under an exceptional circumstances determination. It is expected that the majority of these will be audited (i.e. will undergo a site audit) in the next 5 months.

7. When did the Commission temporarily modify its regulatory program?

The Commission has reviewed and refined its regulatory program throughout the pandemic to ensure it remains fit for purpose.

The Aged Care Quality and Safety Commissioner recently published a statement about this with information on the Commission's activities to protect aged care consumers during the pandemic. It is available on our website [here](#).

8. How many site visits did the commission conduct in 2020, 2021 and in January 2022?

Site visits conducted by the Commission at residential aged care services, by year are:

In 2019-20: 1,866

In 2020-21: 3,452

In 2021-22 (to 31 January 2022): 654

9. How many phone compliance checks were done in 2020, 2021 and 2022?

In addition to site visits, the Commission conducts non-site activities, such as phone assessment contacts and survey assessment contacts.

Non-site activities conducted by the Commission at residential aged care services, by year are:

In 2019-20: 3,892

In 2020-21: 8,378

In 2021-22 (to 31 January 2022): 3,090

10. Of the facility's that have experienced outbreaks in 2021 and 2022 how many have received on site spot checks from the commission?

Data in the Department's weekly reports on COVID-19 outbreaks in Australian residential aged care facilities, shows that 2,033 residential aged care services in Australia have experienced an outbreak during the pandemic.

Since the commencement of the Commission's Infection Control Monitoring (ICM) spot check program in August 2020, the Commission has conducted over 3,040 on-site ICM spot checks at residential aged care services nationally (as at 10 February 2022). Over 80 per cent of residential aged care services with a current active outbreak have received at least one ICM spot check in this time, and some have received more than one.

The ICM spot check program is just one of the Commission's tools to monitor and assess aged care services, and involves on-site visits to residential aged care services without an outbreak to check compliance with infection prevention and control requirements including the use of personal protective equipment (PPE). The purpose of the ICM spot check is to observe infection control practices, to ensure that staff, management and visitors are adhering to safe personal protective equipment protocols and to safe infection control arrangements as required under the Standards.