

POLICY REGISTER

Aged Care Prudential Standards Policy

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Aged Care Prudential Standards Policy

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Aged Care Prudential Standards Policy

Introduction

This Policy has been prepared as an initial stage of reform of Councils Prudential Standards for the acceptance, investment and reporting of Residential Accommodation Deposits (RADs).

The Royal Commission into Aged Care and Safety has identified that change is required to the management of resident's payment of accommodation deposits. As changes are made by the Australian Government, this Policy will be amended to reflect the directions and legislation at that time.

Council agrees that improved notification to residents or families is required around the use and investment of RADs and have produced this document based on the Commission findings, and the Australian Governments - Aged Care Quality and Safety Commission, Prudential Standards advice (A copy is attached to this document).

Changes made to this policy shall be made available on Councils website.

1.0 Prudential Standards

The Prudential Standards as set out in the *Fees and Payments Principles 2014 (No 2)* (the Principles) outline the regulatory requirements of providers in respect of their prudential management of refundable accommodation deposits, accommodation bonds and entry contributions (collectively known as accommodation deposits).

The *Aged Care Act 1997* requires that all Approved Providers must comply with the Prudential Standards as set out in the principles.

There are four Prudential Standards being:

- Liquidity Standard
- Records Standard
- Governance Standard; and
- Disclosure Standard.

One of the requirements contained in the Disclosure Standard is the disclosure each year of certain information to the Department of Health. The Approved Provider must submit to the Secretary a statement in the form specified disclosing matters relating to the compliance with the Prudential Standards during the year and disclose instances or periods of non-compliance with those Standards (included with the Annual Prudential Compliance Statement).



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2.0 Permitted uses

Division 52N of the *Aged Care Act 1997* defines permitted uses. The use of refundable accommodation deposits (RADs) is regulated by Part 6 of the Principles.

An Approved Provider is permitted to use RADs for the following:

- a) Capital expenditure for residential or flexible aged care purposes
- b) Investing in certain financial products
- c) To make a loan (with certain conditions to be satisfied)
- d) To refund or repay debt accrued for the purposes of refunding accommodation deposits
- e) To repay debt accrued for the purposes of capital expenditure as referred to in above
- f) To repay debt accrued before 1 October 2011 (the application date for the current permitted use rules) if the debt is accrued for the purposes of providing aged care to care recipients
- g) For a use permitted by the Fees and Payments Principles.

3.0 Annual Prudential Compliance Statement

Approved Providers that hold RADs are required by 52N-1 of the *Aged Care Act 1997* to comply with the Prudential Standards. The Disclosure Standard requires to complete and submit the Annual Prudential Compliance Statement (APCS) to the secretary of the Department within four months of the end of their financial year.

The APCS acts to demonstrate the compliance with the four Prudential Standards. The APCS must be audited by an independent external auditor.

The APCS contains questions about the number and value of the accommodation deposits held, whether refunds were paid on time, and whether they complied with Prudential Standards. Approved Providers are also required to provide information to support their compliance with permitted uses for accommodation deposits.

4.0 Financial Reporting Requirements

Division 2 of the Principles requires Approved Providers to submit to Department the following:

- Aged Care Financial Report (ACFR) (which includes the Annual Prudential Compliance Statement)
- General Purpose Financial Report.

5.0 Corporate Governance

Governance refers to the systems that are in place to “govern” or control an organisation. Each organisation must consider how this is best achieved for their organisation which can depend on for example, the size and complexity of the organisation.



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Those charged with governance - such as the Board of Directors are the primary stakeholders influencing corporate governance of the organisation and have the ultimate responsibility and accountability of ensuring strategic goals are met, financial sustainability is maintained, as well as to comply with obligations as set by the regulatory environment in which the organisation operates.

For Approved Providers, with regards to financial reporting and prudential compliance, the Directors must ensure compliance with the following (depending on the type of organisation):

- Corporations Act 2001 (for listed companies, and for-profit companies)
- Australian Charities and Not-for-Profits Commission Act 2012 (for registered not-for-profit entities)
- Income Tax Assessment Act 1997
- Aged Care Act 1997
- Fees and Payments Principles 2014 (No 2)
- Accountability Principles 2014.

The Directors must ensure appropriate mechanisms have been implemented to ensure compliance with the above regulatory environment in addition to a significant number of other legislative and statutory obligations. This includes the responsibilities relevant to managing prudential risk within the organisation and ensuring compliance with the current Standards as set out in the respective *Principles*.

With reference to the Governance Standard, the Directors must ensure that the organisation only uses RADs for permitted uses and that RADs are refunded to residents or their estates within the specified timeframe. The Governance Standard also sets out the minimum governance system that should be adopted by an Approved Provider including those in relation to reporting and delegation. An important component is the requirement to enable a robust risk management environment.

Division 1: Liquidity Standard

Requirement for sufficient liquidity

If an Approved Provider holds one or more refundable deposit balances, accommodation bond balances or entry contribution balances, the Approved Provider must maintain sufficient liquidity to ensure that the Approved Provider can refund, in accordance with the Act and these principles, any of those balances that can be expected to fall due in the following 12 months.



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Requirement to implement, maintain and comply with liquidity management strategy

An Approved Provider that holds one or more refundable deposit balances, accommodation bond balances or entry contribution balances must implement and maintain a written liquidity management strategy (LMS) that sets out:

- a) the amount (expressed as an amount of whole dollars) required to ensure that the Approved Provider has sufficient liquidity for the purposes of section 43 (the minimum level of liquidity); and
- b) the factors that the Approved Provider had regard to in determining the minimum level of liquidity; and
- c) the form in which the Approved Provider will maintain the minimum level of liquidity.

Current Bidgee Haven considerations for LMS calculation @ 30 June 2022

Schedule 1 Use of Resident Accommodation Deposit (Liquidity Statement) - Annual Statements of Residents

Attached to policy, to be reviewed annually by Council.

Division 2: Records Standard

Refundable deposit register

An Approved Provider must establish and maintain a register (the refundable deposit register) that includes:

- a) the information in relation to refundable deposits, accommodation bonds and entry contributions as provided by this Division; and
- b) any other information in relation to refundable deposits, accommodation bonds or entry contributions determined, by legislative instrument, by the Secretary.

An Approved Provider maintains such a register and forms the basis for its annual reporting requirements within the Disclosure Standard.

Division 3: Governance Standard



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Requirement for governance system

An approved provider that holds one or more refundable deposit balances or accommodation bond balances must implement and maintain a governance system that ensures that those balances:

- a) are used only for permitted uses; and
 - b) are refunded to care recipients in accordance with section 52P-1 of the Act.
- Without limiting the matters that an approved provider's governance system may deal with, the system must provide for the following:
- a) allocating responsibilities to the key personnel of the approved provider in relation to the management of refundable deposit balances or accommodation bond balances held by the provider
 - b) monitoring and controlling any delegation or outsourcing of the allocated responsibilities
 - c) reporting mechanisms for the allocated responsibilities that ensure that the key personnel who are responsible for the executive decisions of the approved provider can effectively monitor and control the use of refundable deposit balances and accommodation bond balances
 - d) ensuring that the key personnel who are allocated responsibilities, and persons to whom responsibilities are delegated or outsourced, are aware of the requirements of the Act and these principles in relation to refundable deposits and accommodation bonds
 - e) detecting, recording and responding to any failure to comply with the requirements referred to in paragraph d.

The Bidgee Haven Board through Management and underlying internal control environment (including the external audit of the annual prudential compliance statement) ensure the governance expectations are met.



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Requirement for investment management strategy

Where refundable deposits and bonds are not immediately required for other permitted uses, providers may choose to invest them in order to generate additional income. The Act allows for refundable deposits and bonds to be invested in a broad range of financial products ie. a financial product covered by any of paragraphs 52N-1(3)(b) to (e) of the Act

While investment in particular financial products and religious charitable development funds is a permitted use for refundable deposits and bonds, these investments bring with them a range of risks that need to be recognised and appropriately managed.

If a provider invests bonds and refundable deposits solely in a deposit taking facility provided by an authorised deposit-taking institution, then the provider is not required to implement an investment management strategy. Otherwise, the Approved Provider must implement and maintain a written investment management strategy that sets out the following:

- a) the Approved Provider's investment objectives
- b) the Approved Provider's assessment of the level of risk to the provider's ability to refund refundable deposit balances or accommodation bond balances in accordance with the Act
- c) a strategy for achieving the investment objectives while ensuring that the Approved Provider can refund refundable deposit balances and accommodation bond balances in accordance with the Act
- d) the asset classes the approved provider may invest in
- e) investment limits for each asset class that are consistent with the investment objectives
- f) key personnel with appropriate skills and experience who are responsible for implementing the investment management strategy.



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Division 4: Disclosure Standard

Annual prudential compliance statement

An Approved Provider must give the Secretary a statement (the annual prudential compliance statement) for a financial year for the approved provider that includes the following:

- a) information about refundable deposits and refundable deposit balances referred to in section 52
- b) information about accommodation bonds and accommodation bond balances referred to in section 53
- c) information about entry contributions and entry contribution balances referred to in section 54
- d) information about other fees referred to in section 54A
- e) the statements and other information referred to in section 55
- f) any other statements and information determined, by legislative instrument, by the Secretary.

Audit of annual prudential compliance statement

An annual prudential compliance statement must be supported by an independent audit provided by:

- a) a registered company auditor within the meaning of the Corporations Act 2001; or
- b) a person approved by the Secretary under subsection (2).

Disclosure to care recipients

Providers have responsibilities for information that must be provided to care recipients (or their representatives).



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➤ Copy of accommodation agreement

Within seven days after an accommodation agreement is entered, providers must notify the care recipient, in writing, that the provider will give the care recipient, within 7 days of a request by the care recipient, the information and documents set out in section 57 of the Fees and Payments Principles which include:

- a) summary of the permitted uses that refundable deposits and bonds have been used for in the previous financial year
- b) if refundable deposits and bonds have been invested in financial products other than through an authorised deposit-taking institution, a statement explaining the provider's investment objectives and the asset classes they may invest in
- c) information about whether the provider has complied with the prudential requirements and permitted uses for refundable deposits and bonds
- d) a copy of the independent audit opinion of the annual prudential compliance statement from the previous financial year
- e) information about the number of refundable deposit balances and bond balances that were not refunded in accordance with the Act or, for entry contributions, a formal agreement
- f) the provider's most recent audited accounts or, if the service is part of a broader organisation, the statement relating to the aged care component
- g) a copy of the resident's entry in the refundable deposit register, current at the time of the request.

Within four months after the end of each financial year, providers are required to provide care recipients who have paid a refundable deposit, a bond or an entry contribution with the following information:

- a) a copy of the resident's entry in the refundable deposit register, as at the end of the financial year (assuming that the resident had paid a refundable deposit or an bond prior to the end of the financial year), and
- b) a written statement that the provider will provide, within seven days of request, the information and documents specified in section 57(1)(a)-(g) - (3), Fees and Payments Principles.

If a care recipient who has paid a refundable deposit, a bond or entry contribution requests the information and documents set out in section 57(1)(a)-(g) - (3), and provider must provide it within seven days. That information includes the following:

- a) a summary of the permitted uses that refundable deposits and bonds have been used for in the previous financial year



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- b) if refundable deposits and bonds have been invested in financial products other than through an authorised deposit-taking institution, a statement explaining the provider's investment objectives and the asset classes they may invest in
- c) information about whether the provider has complied with the prudential requirements and permitted uses for refundable deposits and bonds
- d) a copy of the independent audit opinion of the annual prudential compliance statement from the previous financial year
- e) information about the number of refundable deposit balances and bond balances that were not refunded in accordance with the Act or, for entry contributions, a formal agreement
- f) the provider's most recent audited accounts or, if the service is part of a broader organisation, the statement relating to the aged care component
- g) a copy of the resident's entry in the refundable deposit register, current at the time of the request.

Bidgee Haven completes and submits its audited annual prudential compliance statement. Accommodation Agreements are prepared for each resident and all other information is provided and/or advised that it is available on request. Annual disclosure requirements are also met.

How to contact Balranald Shire Council and Bidgee Haven

Post

Balranald Shire Council
PO Box 120
Balranald NSW 2715

Telephone

Balranald Shire Council (03) 5020 1300

Online

Email: council@balranald.nsw.gov.au



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Schedule 1: Use of Resident Accommodation Deposit (Liquidity Statement) – Annual Statements to Residents

Balranald Shire Council has prepared this annual statement as to the use of the Residential Accommodation Bond (RAD) in accordance with this policy.

Balranald Shire Council does not have any proposed Capital or Maintenance works proposed within its 2022 – 2023 Budget that require the use of Residential Accommodation Bonds (RAD).

Balranald Shire Council as the owner and operator of the Bidgee Haven Retirement Hostel (Hostel) will not use the RAD Funds that it holds according to Commonwealth legislation, for any works during the budget period.

Balranald Shire Council will invest the RAD funds of all residents in investment bearing term accounts, to generate interest for future use by Council in the maintenance of the Hostel.

Investment of RAD Funds (Liquidity Statement)

Balranald Shire Council shall invest RAD Funds in interest bearing funds in accordance with its Investment Policy and Commonwealth legislation.

Council will invest up to 80% (approximately \$1.5 million) of all RAD funds in investments and shall hold a minimum of 20% (approximately \$500,000) of RAD funds in other accounts to meet resident exit payments when a resident leaves the Hostel. Balranald Shire Council has access to other funds to meet an increase in demand for repayment of RADs as and if required or may with draw funds from investment as circumstances require.

All interest derived from the investment of RAD Funds shall be retained by Council as permitted by legislation and shall be held in a Reserve for improvements and maintenance of the Hostel.

Where a resident exits the Hostel and the RAD funds are held by Council awaiting advice or direction for payment, only these RAD Funds shall be paid interest as per Commonwealth legislation from the period of exiting the Hostel until funds are transferred to the resident or by legal direction. Interest paid shall be equivalent to the daily cash rate that Council receives during the period that funds are held.

Council cannot determine the length of time between when a resident exits the Hostel and when the payment of RAD Funds is required and can not invest the funds in a higher yielding interest account.

This statement has been prepared for all residents, families and advisory to residents as to Councils current and future use of RAD Funds as permitted by this Policy and Commonwealth Legislation.

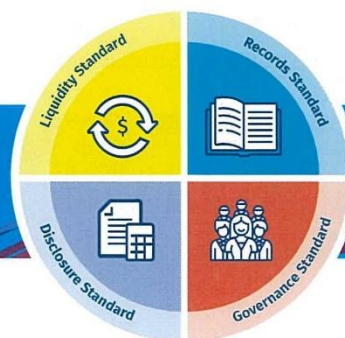
Schedule 2 Australian Government – Aged Care Quality and Safety Commission – Prudential Standards



Australian Government
Aged Care Quality and Safety Commission

Engage
Empower
Safeguard

Prudential Standards



Overview

Approved providers of residential aged care are required to comply with prudential responsibilities set out in the *Aged Care Act 1997* (the Aged Care Act) and the *Fees and Payments Principles 2014* (No.2) (the Principles). In particular, approved providers must comply with the following:

- general responsibilities of approved providers (outlined in sections 56-1(a)(iii), section 56-1(c) (i) and section 56-1(n) of the Aged Care Act);
- requirements relating to managing refundable deposits, accommodation bonds and entry contributions (outlined in Part 3A.3 of Chapter 3A of the Aged Care Act and Parts 6 and 7 of the Principles); and,
- the Prudential Standards (Part 5 of the Principles).

There are **four** Prudential Standards (the Standards) in the Principles:

- **Liquidity Standard**
- **Records Standard**
- **Governance Standard**
- **Disclosure Standard**

1.1 Liquidity Standard



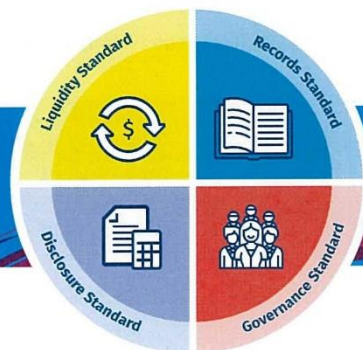
The Liquidity Standard, (sections 43-44 of the Principles), requires any approved provider holding at least one refundable deposit or accommodation bond balance (including entry contributions) during the financial year to:

- maintain sufficient liquidity to ensure they can refund refundable, deposit balances and accommodation bond balances (including entry contributions) that can be expected to fall due in the following 12 months (see: section 43 of the Principles).
- implement and maintain a written liquidity management strategy (LMS), which identifies:
 - the minimum level of liquidity expressed as an amount of whole dollars required to ensure the approved provider has sufficient liquidity to refund refundable deposits and accommodation bond balances (including entry contributions) as they fall due;
 - the factors the approved provider considered in determining the minimum level of liquidity; and,
 - the form in which the provider will maintain the minimum level of liquidity (see: section 44(1) of the Principles).

Common forms of evidence that are required from an approved provider to confirm they can maintain minimum liquidity are an LMS, bank statements or lines of credit balances.



Prudential Standards



An approved provider is also required to:

- maintain the minimum level of liquidity (in the form specified in the approved provider's LMS);
- ensure the approved provider's LMS is kept up-to-date and complies with the requirements in section 44(1) of the Principles; and,
- modify, or replace, its LMS if the approved provider becomes aware that the LMS no longer complies with the requirements in section 44(1) of the Principles (see: section 44(2) of the Principles).

1.2 Records Standard



The Records Standard (sections 45-48 of the Principles) requires an approved provider to establish and maintain

a register (refundable deposit register) that includes information in relation to refundable deposits, accommodation bonds and entry contributions.

The refundable deposit register:

- may be maintained at either the service level or at provider level, noting that for the Annual Prudential Compliance Statement (APCS), it is at provider level
- can be either in hard copy or electronic
- must include relevant details on payments made – for example, lump sum, part lump sum and daily accommodation payments or periodic payments
- must include resident ID number and resident name, RAD or bond details, the date the resident entered the service (or the date if the resident transferred from another service) and date payment/s were made (inclusive of any instalments).

Common forms of evidence required to assess compliance are RAD register entries for individual care recipients and RAD refunds.



Prudential Standards



1.4 Disclosure Standard



The Disclosure Standard, (sections 51-58 of the Principles), requires approved providers holding refundable deposits and accommodation

bonds (including entry contributions) to provide the Secretary of the Department of Health, care recipients, prospective care recipients and their representatives, information on their compliance with the Liquidity, Governance, Records and Disclosure Standards, including information on their refundable deposit balances.

The Annual Prudential Compliance Statement (APCS) and letter to care recipients or their representatives should be completed within 4 months of the end of the financial year, which for most providers will be 31 October.

Common forms of evidence required to assess compliance with the Disclosure Standard are:

- the APCS
- letters sent to care recipients within 4 months of the end of the financial year
- accommodation agreements
- information on the approved provider's website.