**Directorate: Community Services**

**17/697 - Office of the Senior Practitioner to Reduce and Eliminate Restrictive Practices Bill 2018**

|  |
| --- |
| **Summary of Impacts** |
| * The ACT Government has previously agreed to two national frameworks: the National Framework for Reducing and Eliminating the Use of Restrictive Practices in the Disability Sector and the National Disability Insurance Scheme (NDIS) Quality and Safeguarding Framework. These two imperatives and the associated Regulatory Impact Statement give clear timeframes for the establishment of an ACT Office of the Senior Practitioner (ACT OSP), as well as the National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017, which was passed Federal Parliament on 4 December 2017. It establishes a Senior Practitioner within the NDIS and will take effect from 1 July 2018.
* The ACT Bill will facilitate the creation of a Senior Practitioner role to enable vulnerable people in the ACT to achieve a better quality of life, free of unnecessary and unreasonable interventions that limit their human rights.
* It is necessary that an ACT Office of the Senior Practitioner (OSP) be established for the ACT to meet its obligations under the National Framework for Reducing and Eliminating the use of Restrictive Practices in the Disability Sector and the National Disability Insurance Scheme (NDIS) Quality and Safeguarding Framework. The ACT OSP legislation will have a broad scope to capture all people who are vulnerable and potentially subject to restrictive practice, not just those with disability. There will be a phased implementation in various settings. The powers of the ACT OSP will extend to schools and other education settings, children and young people in out-of-home care, community mental health, and non-Commonwealth funded community aged care (i.e. outside of a nursing home). Clinical mental health and custodial or prison detention (including the Bimberi Youth Justice Centre) will be excluded due to existing oversight arrangements specific to those settings.
 |

*Key to impacts: Red – negative, Blue – neutral and Green – positive.*

**Social**

|  |  |
| --- | --- |
| **Justice and rights** | * The focus of the ACT OSP legislation is likely to incorporate the vast majority of individuals subject to restrictive practices, including children and young people and those with psychosocial disabilities.
* Regulation and oversight of restrictive practices will safeguard and uphold the rights of the vulnerable people in the ACT community by focusing on restraint-free interventions, thereby minimising the use of restrictive practices which, under different circumstances, could be considered harm and abuse.
* The Bill will be compatible with the *Human Rights Act 2004* (ACT).
 |

**Economic**

|  |  |
| --- | --- |
| **ACT Government Budget** | * In the 2017-18 Budget, the ACT Government committed over $1.8 million over four years for the establishment and operation of the ACT Office of the Senior Practitioner. This includes operational and administrative expenses, including two positions: the Senior Practitioner and a Senior Project Officer.
 |
| **Productivity** | * Regulation and oversight of restrictive practices will include the provision of professional support and education for service providers about ways to minimise and eliminate restrictive practices.
* The Bill will provide greater clarity to service providers, clients and carers about the acceptable use of restrictive practices.
* The Bill will establish the need for documentation of positive behaviour support plans. These plans incorporate a functional analysis of behaviour that acknowledges behaviour as a form of communication and/or a means by which the person achieves a desired outcome, and includes a focus on proactive skills building and environmental modification to support behaviour change.
* The reduction and elimination of unnecessary and unreasonable interventions, and effective implementation of positive behaviour support, is intended to allow those persons currently subject to restrictive practices to experience greater self-determination over time.
 |
| **Investment** | * The need for an OSP was identified through service delivery experience and through consultation with the community. A consultation, undertaken by JFA Purple Orange, found that the significant uncertainty around the use of restrictive practices is impacting the ACT community. It also found there are clear expectations community members have of the benefits an OSP will bring.
* The legislation will impose some minor regulatory burden on service providers that use or may use restrictive practices. This will be outweighed, however, by the elimination of uncertainty on what practices are allowable and disallowed, which will lower the risks of legal costs and negative media coverage. The legislation achieves a key part of the preferred package in the Commonwealth Regulatory Impact Statement to support aspects of NDIS Quality and Safeguarding Framework (published on [www.ris.pmc.gov.au](http://www.ris.pmc.gov.au)).
 |
| **Competition** | * The proposed ACT Bill will have a broad scope to capture people who are vulnerable and potentially subject to restrictive practice, not just those with a disability.
* The proposed Bill is expected to have no impact on the competitiveness of the ACT Economy. The proposal is competitively neutral in that all states and territories have agreed to the two national frameworks. These frameworks will impose only minor added regulatory burden to service providers.
 |

**Environmental**

No impact.