

1997

**LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY**

**Community and Health Services Complaints  
(Amendment) Bill 1997**

**EXPLANATORY MEMORANDUM**

**Circulated by the authority of the Minister for  
Health and Community Care**

**Kate Carnell, MLA**

## **COMMUNITY AND HEALTH SERVICES COMPLAINTS (AMENDMENT) BILL 1977**

### **Outline**

The *Community and Health Services Complaints (Amendment) Bill 1997* (the Bill) will amend the *Health Complaints Act 1993* to extend the role of the Health Complaints Commissioner.

This extended role will enable the Commissioner to investigate complaints relating to services for aged people and for people with disabilities, and also to investigate complaints about the practices of health professionals preparing health status reports, but not the opinion or decision in the actual reports

The *ACT Disability Services Act 1991* Schedule 2 requires that programs be designed and administered so as to ensure appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services. This independent mechanism is one element of a comprehensive complaints system

The expanded role of the Commissioner will cover only services which are specifically provided for aged people and/or for people with disabilities, it does not cover mainstream services accessed by some aged people and people with disabilities. The legislation also states that the Commissioner will not investigate a complaint where another appropriate mechanism is available.

The Commissioner's role remains quite distinct from the roles of the Community Advocate, the Ombudsman and the ACT Discrimination Commissioner

The amendments relating to health status reports result from concerns about the limitation in the current Act on the Commissioner's ability to investigate complaints relating to workers compensation matters. The amendments proposed will enable the Commissioner to investigate complaints about the practices of health professionals preparing health status reports, whilst ensuring that the opinion or decision itself cannot be reviewed through this mechanism

### **Financial Impact Statement**

The extension of the Commissioner's role will be funded on a recurrent basis through the ACT Home and Community Care program

Details of the Bill are as follows:

**PART 1 - PRELIMINARY**

This part provides for the formal matters for the Act.

**Clause 1 - Short title** The short title is *Community and Health Services Complaints (Amendment) Act 1997*.

**NB 'Community Service', as defined in the Act, means a service for aged people or people with a disability.**

**Clause 2 - Commencement** The Bill will commence on Gazettal.

**Clause 3 - Principal Act** Defines the Principal Act as the *Health Complaints Act 1993*

**Clause 4 - Long title** The long title of the Principal Act becomes "An Act relating to the rights and responsibilities of users and providers of services for the aged and people with disabilities and health services and to provide for resolution of complaints arising out of the provision of those services"

**Clause 5 - Short title** The short title of the Principal Act becomes "*Community and Health Services Complaints Act 1997*".

**Clause 6 - Objects** The objects of the Principal Act become:

- to provide an independent, fair and accessible mechanism for the resolution of complaints between users and providers of community services and health services
- to improve the provision of health services and enable users and providers to contribute to the review and improvement of the provision of community services and health services
- to promote the rights of users of community services and health services; and
- to encourage an awareness of the rights and responsibilities of users and providers of community services and health services

**Clause 7 - Interpretation** Provides interpretative provision for the Bill.

**Clause 8 - Reasonableness of providers' actions** Outlines changes to the Principal Act to include appropriate standards against which to judge the reasonableness of the actions of providers of services for aged people and for people with disabilities

**Clause 9 - Insertion** Alters the title of the Health Complaints Commissioner to 'Community and Health Services Complaints Commissioner'

**Clause 10 - Appointment** Amends the Principal Act to take account of the new role and title of the Commissioner in the appointment process.

**Clause 11 - Functions** Amends the Functions of the Principal Act to incorporate services for aged people and for people with disabilities. Also makes provision for information to be provided to “a purchaser of a service” where appropriate

**Clause 12 - Heading Part 111** The heading to Part 111 of the Principal Act becomes “Complaints”

**Clause 13 - Who may complain** Amends the Principal Act to include “community services”, i.e. a service for aged people or for people with a disability

**Clause 14 - Grounds for complaint** Amends the Principal Act to include “community services”. Also, incorporates the standards for which a provider should have regard in relation to services for aged people and for people with disabilities

**Clause 15 - Confidentiality of user’s and complainant’s particulars** Amends the Principal Act to include “community services”

**Clause 16 - Reports** Amends the Principal Act in order that reports of an investigation can be given to any or all of the nominated people or bodies

**Clause 17 - Notices about Unit** Amends the Principal Act to include “community services”.

**Clause 18 - Schedule** Amends the Principal Act by

- omitting from ‘Services that are health services’ - ‘a service provided in association with the use of premises for the care, treatment or accommodation of persons who are aged or have a physical disability or mental dysfunction’ from the schedule of services that are health services’;
- incorporating in ‘Services that are health services’ - ‘an examination for the purpose of preparing a health status report’; and
- omitting ‘the provision of an opinion or the making of a decision for the purposes of a claim under the *Workers’ Compensation Act 1951*’ from ‘Services that are not health services’ and replacing this with ‘The process of writing, or the content of, a health status report’

This clause also sets out new parts for Schedule 1 to the Principal Act which define  
Part 111 - Services that are services for the aged;  
Part IV - Services that are not services for the aged,  
Part V - Services that are services for people with disabilities, and  
Part VI - Services that are not services for people with disabilities

**Clause 19 - Amendments of other Acts** Specifies the Acts which are amended as a result of changes to the Principal Act