



New Aged Care Act Rules - Release 3

Bolton Clarke Submission

p

Date: 13 March 2025

Author: [REDACTED]

Table of contents

Recommendations..... 3

Additional information..... 3

 Consider a phased approach so that the sector can focus on implementing the key elements
 of the new Act..... 3

 Establish a process for evaluating the cost and benefits of rule changes..... 4

 At minimum, remove or clarify specific requirements that will result in unintended
 consequences or raise significant additional administrative costs 4

Recommendations

Government should:

- Consider a phased approach so that the sector can focus on implementing the key elements of the new Act
- Establish a process for evaluating the cost and benefits of rule changes
- At minimum, remove or clarify specific requirements that will result in unintended consequences or raise significant additional administrative costs. Specifically:
 - Annual complaints report that includes each and every complaint/feedback [s166-220(5)]
 - Recording of employee/staff data on GPMS [s154-1140]
 - Witness contact information on reportable incidents [s164-25(1)(f)]
 - Auditing care minute reports [s166-335(5)]

Additional information

Consider a phased approach so that the sector can focus on implementing the key elements of the new Act

- This release of the rules contains a long list of new or adjusted detailed requirements for provider systems. Most of the changes are minor, but some will be more complex and costly to implement.
- Providers are already in the middle of major change management programs to implement the new Act, new funding models, and standards.
- Adding a long last-minute list of additional detailed requirements unnecessarily adds significant complexity and risk.
 - An example of minor but probably unhelpful requirement is the need to notify staff, clients and responsible people that provider welcomes feedback and disclosures on a monthly basis [s165-20(1)(j); s165-50(1)(f)] – this is probably easy enough to do but it exacerbates information overload problems, and it is not at all clear that it constitutes best practice.
 - An example of an unintended consequence is that it seems that physical contact between a resident and their spouse who is a volunteer while that spouse is ‘on-shift’ technically falls within the definition of reportable incident [s16-5(6)]. While in practice this would be disregarded it illustrates the haste with which these requirements have been developed.
- Rather than pursuing a ‘big-bang’ change where all new requirements take effect on 1 July, the initial rules for provider systems should be as principles-based as possible, and avoid tweaking existing rules or adding new disclosure and record keeping requirements unless these are strictly required by the new Act.
 - For example, rather than specifying detailed requirements for providers systems (e.g. complaints, protected disclosures) the rules should simply say that these systems must be consistent with widely accepted practice. With any additional detail set out in guidance.

- This approach allows providers to focus on the key changes coming into effect in just a few months, without precluding the inclusion of additional detailed requirements as part of a second tranche.
- The other key reason for taking phased approach is the case for many (if not most) of the detailed changes that the Royal Commission only made out the case for the broad elements of the new Act, not the sort of very specific detailed requirements set out in this release. A phased approach will provide time for the costs and benefits of these requirements to be appropriately considered.

Establish a process for evaluating the cost and benefits of rule changes

- The proposed rules create a number of additional administrative requirements. Collectively these may add significant additional administrative costs – this ultimately translates into additional costs for taxpayers and people receiving services.
- Ultimately large providers with economies of scale like Bolton Clarke probably benefit from the bloating of administrative requirements because economies of scale let us manage these requirements more efficiently. Despite this, it is frustrating to see time and attention diverted to administrative tasks that seem to have limited value, at the expense of priorities identified by our staff and clients.

At minimum, remove or clarify specific requirements that will result in unintended consequences or raise significant additional administrative costs

While most of the additional requirements are minor, and are only of some concern cumulatively, there are some requirements that seem individually costly or problematic to implement.

Specifically:

- **Annual complaints report that includes each and every complaint/feedback [s166-220(5)]:** There is not a clear case for this. Our understanding is that analysing the complaints and incidents data that it already received is a significant challenge for the Commission. In theory this sort of data could be ingested into a large language model, but this raises significant privacy issues and the value of the insights that would be generated are questionable. There is a broader privacy risk with the amalgamation of so much sensitive information within a single document. The cost of compiling this information is likely to be enormous. And people may choose not to provide feedback because they know it will end up being given to the regulator.
- **Recording of employee/staff data on GPMS [154-1140]:** This seems to require providers to record a dozen or so data points about hundreds of thousands of employees on GPMS. Some of this data will already be held as structured data in provider systems but migrating it to government systems is unlikely to be straightforward. There will also probably be some datapoints that are not held as structured data, requiring an enormous amount of manual data entry. No case is made for this enormous additional administrative burden, and there is no explanation for how this would actually be implemented in an efficient manner.
- **Witness contact information on reportable incidents [s164-25(1)(f)]:** Bolton Clarke already records witness details as part of incident reports where this is appropriate and necessary. However, having to record all witnesses and all witness contact information for every incident is likely to be an immense undertaking, especially as the provider will not necessarily be able to readily contact many of the witnesses. The cost of this almost certainly outweighs any marginal benefit this delivers in making incidents easier to investigate. Rather than being so prescriptive this should be replaced with a more generic requirement to take reasonable steps to collect witness information.

- **Auditing care minute reports [s166-335(5)]:** While we appreciate the desire to ensure that care minute reporting is robust, the cost of auditing each report is likely to be significant. If further assurance is required, a robust random audit program is likely to be significantly more cost effective.