



ACT HUMAN RIGHTS
COMMISSION

ANNUAL REPORT

2017–2018



ACT HUMAN RIGHTS
COMMISSION

ANNUAL REPORT 2017–2018

OUR VISION

To create an inclusive community that respects and realises everyone's rights.

OUR MISSION

We strive to achieve our vision by:

*leading positive systemic change
engaging and educating the community
delivering accessible services that
empower and support people
providing effective oversight*

OUR VALUES

*Respect
Collaboration
Innovation
Accessibility
Integrity
Independence*

Cover graphic: Nautilus by Lynnice Keen.

Nautilus has been a symbol of the ACT Human Rights Commission since the Commission's inception in 2006. For us, it symbolises strength; balance; harmony; expansion; growth; protection and renewal.

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SECTION A: TRANSMITTAL CERTIFICATE

Mr Shane Rattenbury MLA
Minister for Justice and Community Safety
Legislative Assembly for the ACT
Canberra ACT 2601

Dear Minister,

This Report has been prepared under section 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements under the Annual Report Directions. It has been prepared in conformity with other legislation applicable to the preparation of the Annual Report by the ACT Human Rights Commission (the Commission).

We hereby certify that the attached Annual Report is an honest and accurate account and that all material information on the operations of the Commission during the period 1 July 2017 to 30 June 2018 has been included.

We also certify that fraud prevention has been managed in accordance with Public Sector Management Standards Part 2.

Section 13 of the *Annual Reports (Government Agencies) Act 2004* requires that you cause a copy of the Report to be laid before the Legislative Assembly within three months of the end of the financial year.

Yours sincerely,



Dr Helen Watchirs OAM
President
5 October 2018



ACT Human Rights Commissioners (from left), Discrimination, Health Services, Disability and Community Services Commissioner, Karen Toohey, Public Advocate and Children and Young People Commissioner, Jodie Griffiths-Cook, President and Human Rights Commissioner, Dr Helen Watchirs and Victims of Crime Commissioner, Heidi Yates.

From the President and Human Rights Commissioner

2017-2018 has been a year of continuing consolidation following the growth of the ACT Human Rights Commission to expand its jurisdiction in 2016 to include the Public Advocate and Victims of Crime Commissioner. I would like to thank all Commissioners and staff for their hard work and dedication over the year, providing 44 formal comments on draft Cabinet Submissions, and 30 formal written legal advices or submissions; handling 1426 enquiries and 623 complaints; 1634 victims of crime were provided with assistance and there were 392 new applications under the Victims of Crime Financial Assistance Scheme; and advocating for, or otherwise monitoring, the 2136 people brought to the attention of the Public Advocate.

John Hinchey retired in December 2017 following seven years as Victims of Crime Commissioner, two years in the precursor role of Victims of Crime Coordinator and having worked in the ACT justice system for over 25 years. I would like to pay tribute to John's work as a powerful advocate for improving the visibility of victims of crime in the community and recognising their interests in the criminal justice system; in successfully implementing the new and improved Financial Assistance Scheme; and for widely consulting about the need for a Charter of Rights for Victims of Crime. I would also like to warmly welcome Heidi Yates, the incoming Commissioner who commenced in March 2018. Heidi is a human rights lawyer who worked for the Commission over five years ago. She is very well respected in the community for her recent work with Legal Aid and the Womens' Legal Centre, as well as her many years of strong advocacy for important law reform issues relating to gendered violence and gender diversity.

As human rights overarch all of the Commission's functions, our focus has been to continue to build human rights awareness within all our teams to ensure that our staff cross-refer clients to other Commissioners when needed. Whole-of-Commission submissions and all other systemic legal and policy work are increasingly embedded in a human rights framework at a deeper level.

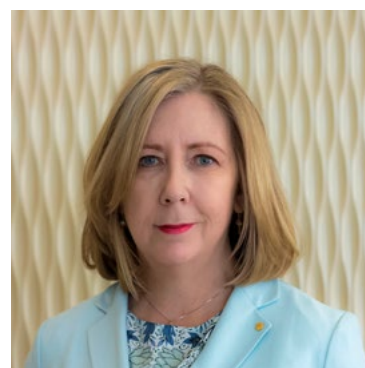
Harmonising our operations has been an internal focus in the past year as we implemented our Strategic Plan. This annual report uses the Plan's four key priorities as a framework to describe our accomplishments over the past year. A Governance and Corporate Support Protocol was endorsed in December 2017 by Alison Playford, the Director-General of the Justice and Community Safety Directorate (JACS). As President, I also drafted an Operations Protocol to ensure our services further enhance the expanded Commission's integration; and we embarked on a scoping of the integration of our information systems for reporting and case management.

As Human Rights Commissioner I received five formal notifications about human rights issues being raised in litigation before the Supreme Court. The Commission did not intervene in these matters. The Human Rights Act only requires formal notification to the Commissioner and Attorney-General if a human rights matter is raised in the Supreme Court. The Commission believes that more human rights matters are being raised in the ACT Civil and Administrative Tribunal (ACAT) and ACT Magistrates Court, indicating a growing awareness of the legislation among the legal profession. For several years I have recommended that Canberrans have better access to justice by being given the right to complain about human rights breaches to the Commission in a similar way to discrimination matters, with a further right of referral to the ACAT, and hope that this will be followed up in the forthcoming ACT Law Reform Advisory Council's report on restorative cities.

One of the Commission's most significant roles is overseeing the Alexander Maconochie Centre (AMC) adult prison under the *Corrections Management Act 2007*; and the Bimberi Youth Justice Centre (Bimberi) under the *Children and Young People Act 2008*. The Human Rights Legal team performed research and investigation work with staff of the Discrimination, Health, Disability and Community Services Commissioner in two of her Commission-initiated considerations, a review of the opioid replacement treatment program at the AMC (2018); and Bimberi, which is expected to be completed in first half of next reporting period. As President, I chair a regular oversight committee meeting at the Commission about the adult prison. I also hold regular meetings with the director-generals of the Justice and Community Safety Directorate, Community Services Directorate, Education and Training Directorate, Health Directorate and relevant ministers.

In March 2018, the Commission welcomed the appointment of Neil McAllister as ACT Inspector of Correctional Services. The Commission hosts his office and staff within Commission premises.

On 12 December 2017 the Commission co-hosted a forum with the Australian Human Rights Commissioner, Ed Santow, on the Australian government's ratification of the UN Convention of Torture Optional Protocol Against Torture. I chaired and opened the event; and speakers included Minister Shane Rattenbury; Audrey Olivier-Muralt (Association for the Prevention of Torture) and Michael White (NZ).



Dr Helen Watchirs.

The Commission wrote to the Attorney-General in December 2017 to reiterate our call for the ACT Government to raise the age of criminal responsibility, in light of recommendations made by the Royal Commission into the Protection and Detention of Children in the Northern Territory. The Commission has consistently recommended that the minimum age of criminal responsibility should be raised from 10 to at least 12 years, in line with international human rights standards and rights protected in the *Human Rights Act 2004* and considering when young people are developmentally mature enough to be criminally liable. It would require the ACT Government to shift further to focus on providing therapeutic support and assistance to these children and their families, in order to address the causes of this behaviour, which often reflect trauma or other complex needs. The ACT should be a strong leader on this important human rights issue, as all jurisdictions reflect upon the important lessons from the NT Royal Commission.

The Commission also continued to advocate for an ACT Disability Justice Strategy similar to those adopted by other jurisdictions (e.g. South Australia and Tasmania). We look forward to the ACT Strategy being developed in 2018-2019.

As highlighted in this Report, Commissioners and staff worked hard throughout the year to deliver human rights and discrimination training, and engage with the public, both online and at community events to promote human rights. As President, I chaired two large community events held in 2017-2018. On 13 September 2017, the Commission and the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) co-hosted a film screening to celebrate the tenth Anniversary of the UN Declaration on the Rights of Indigenous Peoples which is reflected in s27 (2) of the HR Act. The award-winning film *Zach's Ceremony* was screened to an audience of 120 people at the Museum of Democracy at Old Parliament House. Speakers included June Oscar AO (Social Justice Commissioner); Geraldine Atkinson (Deputy Chair, Secretariat of National Aboriginal and Islander Child Care, SNAICC); Katrina Fanning (Elected Body Chair); and Jacob Keed (Elected Body Member).

Following the ground-breaking changes to the federal *Marriage Act 1961 (Cth)* passed on 7 December 2017, the Commission and Amnesty International hosted a community forum entitled *Marriage Equality: Where to Now?* At the forum, which marked International Human Rights Day, four eminent ACT speakers discussed the campaign for marriage equality: Attorney-General Gordon Ramsay; Anne Marie Delahunt; Katrina Fanning; and Bede Carmody. (See Section N: Community Engagement and Support for more information on the event.)

I look forward to another year of growth and strengthening of the Commission to increase the opportunities and benefits for our clients by growing our expertise and the range of services we offer the ACT community. I especially welcome the opportunity to develop a practical and enforceable Charter of Rights for Victims of Crime.

We will continue to harmonise our work and enhance our systems to better protect the ACT community's human rights, in particular in implementing the vital recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse in human rights compatible legislation, policies and programs. There are many areas needing priority, but the two central ones for the Commission are making Canberra a child-safe and child-friendly city, particularly by listening to and enabling young people to participate in decision making, as well as piloting an intermediary scheme to assist vulnerable witnesses to communicate effectively in police interviews and court hearings.

From the Discrimination, Health Services, Disability and Community Services Commissioner

The consolidation of a range of responsibilities in the Discrimination, Health Services, Disability and Community Services Commissioner role enables me to ensure a strategic approach to themes and trends we see across these jurisdictions and work to improve outcomes for the ACT community, particularly vulnerable groups which rely on our timely interventions to deal with issues that directly affect their quality of life and access to equality in the community.

This covers a diversity of issues from access to housing, access to and quality of health services in both the public and private sectors, equal access to education for students, care and protection concerns, standards of care in adult and youth detention facilities, and standards for care and service delivery for people with a disability. Our work in this role also addresses the discrimination that groups within our community experience in participating in public life because of the range of attributes protected by the ACT Discrimination Act including race, disability, gender, family and parental responsibilities. We work at both an individual and systemic level to identify and address concerns raised through contact with the community including complaints, training and education, participation in community events and forums, and direct engagement with key stakeholders. As a member of a range of consultative and oversight committees I work to ensure the practical work and the individual experiences we deal with in complaint handling informs policy and practices across a broad range of settings that fall within my remit.

Our own-motion investigations in this area have included reviewing operations in youth justice facilities, reviewing the use of restrictive practices in schools and residential care settings, adjustments to housing to accommodate older people and people with a disability, and reviewing the use of confinement and seclusion in emergency department settings.

My report into the prescribing of methadone in the Alexander Maconochie Centre, arising from Mr Phillip Moss' report in to the tragic death of Mr Stephen Freeman, was released in March 2018 and made a number of recommendations to improve the health and wellbeing of detainees at the AMC. I look forward to working with ACT Health and the ACT Government more broadly on the implementation of those recommendations.

Handling individual complaints made by community members is a significant part of the work my team undertakes. Over the year we have further consolidated and streamlined complaints processes with a greater focus on offering conciliation as a means of bringing parties together to try to resolve their concerns and contributing to the ACT Government's ongoing work on restorative justice.

This year we achieved an increase in the number of complaints received, finalised and resolved, reflective of the commitment to ensuring we provide an accessible, flexible and efficient complaint handling process where matters are handled in a fair, timely and effective manner. The case studies throughout this report give a flavour of the complexity and diversity of matters handled by the complaints team and the outcomes achievable through the conciliation process.

I look forward to continuing this work in 2018-2019 to promote a safe, inclusive and diverse ACT community.



Karen Toohey.

From the Victims of Crime Commissioner

In December 2017, the Human Rights Commission farewellled retiring Victims of Crime Commissioner, John Hinchey. John had worked in the ACT criminal justice system for over 25 years and was the ACT's first Victims of Crime Commissioner, appointed in 2011. John drove many important reforms and was also successful in advocating for the development of an ACT Charter of Rights for Victims of Crime. Before retirement he released his final public report, summarising what he had learned from victims about the key issues that a Charter should address. This report is available on the victim support website.¹

John's achievements have been recognised on numerous occasions. Most notably, he received a 2015 ACT Public Service Award for Executive Leadership, a 2016 Public Service Medal and a 2017 ACT Violence Prevention Award. John will be greatly missed by the ACT community, his colleagues in the ACT criminal justice sector and the Human Rights Commission team. The Victims of Crime Commissioner role was shared by President Helen Watchirs and Commissioner Karen Toohey until I was appointed to the role, commencing in mid-March 2018.



Heidi Yates.

It is a privilege to have the opportunity to serve the ACT community in the role of Victims of Crime Commissioner. It is a particularly exciting time to enter the role with planning for an ACT Charter of Rights for Victims of Crime well underway. The creation of a Charter is a critical opportunity to strengthen the ACT's human rights framework to better uphold the rights and interests of victims. My team and I will be working closely with government to support the introduction of a charter that is both practical and enforceable.

Other highlights in the reporting period include the employment of Victim Support ACT's first full-time Aboriginal and Torres Strait Islander Victim Liaison Officer, Ms Tanya Keed, who has strengthened our team's connections with Indigenous victims of crime and led internal change to improve our cultural responsiveness.

There has also been a substantial increase in applications to the victims of crime financial assistance scheme over the past year. As intended, the new scheme—which commenced in July 2016—is much more accessible for self-represented applicants and provides more flexible responses, including immediate needs payments that can meet urgent safety needs. As a Commission we have also welcomed the final recommendations of Australia's ground-breaking Royal Commission into Institutional Responses to Child Sexual Abuse. Commencing July 2018, Victim Support ACT will be delivering the counselling and psychological care component of the National Redress Scheme for local survivors. We will also be advocating for implementation of the Royal Commission's recommendations, including the use of intermediaries for vulnerable victims in the criminal justice process.

At the end of a year of significant change, I particularly recognise the Victim Support ACT team for their tireless delivery of front-line services to victims and their families. Support and advocacy available through the victims' services scheme and the financial assistance scheme can make a tremendous difference to the lives of victims. I commend the team's outstanding work in facilitating victim access to both schemes in a timely and sensitive way.

¹ <https://www.victimsupport.act.gov.au/victims-of-crime-commissioner>

From the Public Advocate and Children and Young People Commissioner

As Public Advocate and Children and Young People Commissioner (PACYPC) my focus this reporting period has been on continuing to consolidate the way in which these two roles can best work together to deliver improved outcomes for children, young people and adults experiencing vulnerability.

To this end, I have initiated a number of changes to our business unit processes to enable us to work more strategically; and to ensure we have clear priorities that underpin our engagement with clients, stakeholders and the broader community.

The nature of our work also involves considering systems that are complementary to specialist service delivery and that are essential to pursuing a cohesive, integrated and holistic approach to the needs of people experiencing vulnerability. By stretching the influence of the PACYPC beyond government, and promoting consideration for human rights across the broader landscape within which people experiencing vulnerability live their lives, we are able to generate more sustainable long-term solutions at both individual and systemic levels.

Effecting positive systemic change for Canberra is something that I am both passionate about and remain strongly committed to. The opportunity to influence and contribute to sustainable improvements that more effectively protect and uphold the rights of people experiencing vulnerability drew me to this position and continues to drive me, particularly in light of the transformational change occurring as a result of local and national reforms.

Ensuring that people experiencing vulnerability are able to articulate their views about matters impacting their lives, including policy reform and other such initiatives, continues to be a strong focus in our work. In particular, we generated many opportunities for children and young people to tell us about the things that are important to them, in this reporting period. The importance of children and young people participating in decisions affecting them was an important message emerging from the work of the *Royal Commission into Institutional Responses to Child Sexual Abuse*. Taking this approach is an important protective factor in keeping children and young people safe.

We also advocated for and supported a stronger focus on allowing the views and wishes of people with a disability or mental illness to be heard, including by identifying where support for decision-making can maintain and improve their autonomy.

As always, I would like to acknowledge and commend my team for their commitment to facilitating improved outcomes for people experiencing vulnerability. The team is small, however these dedicated individuals produce a significant volume of work that is consistently of high quality and that gets to the heart of issues affecting those whose rights and interests we seek to uphold.

I look forward to continuing to build upon the achievements that are being made as we move into 2018-2019. I am proud of what we are achieving through the work we do and appreciate the opportunity to continue to promote and pursue effective and sustainable outcomes that improve the lives of ACT children, young people and adults.



Jodie Griffiths-Cook.

SECTION B: PERFORMANCE

B.1 Organisational overview

The ACT Human Rights Commission (Commission) promotes the human rights and welfare of all people living in the ACT.

The Commission is an independent agency established in 2006 under the *Human Rights Commission Act 2005* (HRC Act).

The ACT is the first Australian jurisdiction to have legislated a *Human Rights Act 2004* (HR Act).

The *Protection of Rights (Services) Amendment Act 2016* was passed and came into effect on 1 April 2016, merging the Public Advocate and Victims of Crime Commissioner into the Commission. This annual report is the second full year of operation of the expanded Commission.

Four people carry out the Commission's eight major functions:

- President and Human Rights Commissioner—Dr Helen Watchirs
- Public Advocate—Ms Jodie Griffiths-Cook
- Children and Young People Commissioner—Ms Jodie Griffiths-Cook
- Disability and Community Services Commissioner—Ms Karen Toohey
- Discrimination Commissioner—Ms Karen Toohey
- Health Services Commissioner—Ms Karen Toohey
- Victims of Crime Commissioner—Ms Heidi Yates (and previous incumbent, Mr John Hinchey)

The Commission's role under the HRC Act is to:

- independently handle complaints about discrimination, health, disability and community services
- promote understanding of human rights in the ACT
- encourage service improvement and increase awareness of the rights and responsibilities of service users and providers
- provide advice to government and others about their human rights obligations
- provide advocacy for children, young people and adults experiencing vulnerability
- deliver services to victims of crime and advocate for their interests.

The HR Act provides the Commission with the power to review the effect of Territory laws, including the common law, on human rights and make recommendations to the Minister/Attorney-General about systemic human rights issues.

President and Human Rights Commissioner

The President is responsible for the Commission's governance, finance, resources and administration, as well as:

- reporting on the Commission's behalf
- collecting information about the operation of relevant legislation
- publishing information about the Commission's operation
- promoting community discussion about relevant legislation and the Commission's operation.

The Human Rights Commissioner's functions include:

- providing community education and information about human rights
- reviewing the effect of ACT laws on human rights
- advising the Minister and others on the operation of the HR Act.

The Commissioner may also intervene, with the leave of the court, in any legal proceedings related to the application of the HR Act. However, the Commissioner does not have jurisdiction to handle individual cases of human rights breaches.

Discrimination, Health Services, Disability and Community Services Commissioner

The Commissioner has responsibility for:

- handling all complaints received by the Commission, including complaints about alleged discrimination, health services, disability services, services for older people, and services for children and young people
- promoting awareness of rights and obligations provided for by the HRC Act, the *Discrimination Act 1991* and the *Health Records (Privacy and Access) Act 1997*
- improving service provision and outcomes for people protected by the Acts
- using Commission-initiated consideration powers to address systemic issues
- promoting an understanding of, and compliance with, the Acts
- providing education and training about the Acts and associated rights and obligations
- contributing to legislative and policy development across the jurisdictions administered by the Commissioner.

Victims of Crime Commissioner

The Victims of Crime Commissioner functions are set out in the *Victims of Crime Act 1994*, the *Victims of Crime (Financial Assistance) Act 2016* and the Victims of Crime Regulation 2000.

The functions of the Victims of Crime Commissioner include:

- advocating for the interests of victims of crime
- monitoring and promoting compliance with the governing principles
- responding to concerns related to victims' experiences of the criminal justice system
- ensuring the provision of efficient and effective services for victims
- promoting reforms to meet the interests of victims
- developing educational and other programs to promote awareness of the interests of victims
- ensuring victims receive the information and assistance they need
- providing oversight of services provided by Victim Support ACT and the Victims of Crime financial assistance scheme.

The Victims of Crime Commissioner is also appointed as the ACT Domestic Violence Project Coordinator. The functions of the Domestic Violence Project Coordinator are outlined in the *Domestic Violence Agencies Act 1986*. The work of the Domestic Violence Project Coordinator is assigned by the Domestic Violence Prevention Council.

The functions of the Domestic Violence Project Coordinator include:

- monitoring and promoting compliance with the policies of ACT and Commonwealth governments
- assisting government and non-government agencies to provide services of the highest standard
- facilitating cooperation among agencies and organisations
- assisting in the development and implementation of policies and programs.

Public Advocate and Children and Young People Commissioner

The PACYPC has legislative responsibility for protecting and promoting the rights and interests of people in the ACT who are experiencing vulnerability; and for consulting with children and young people in ways that promote their participation in decision-making.

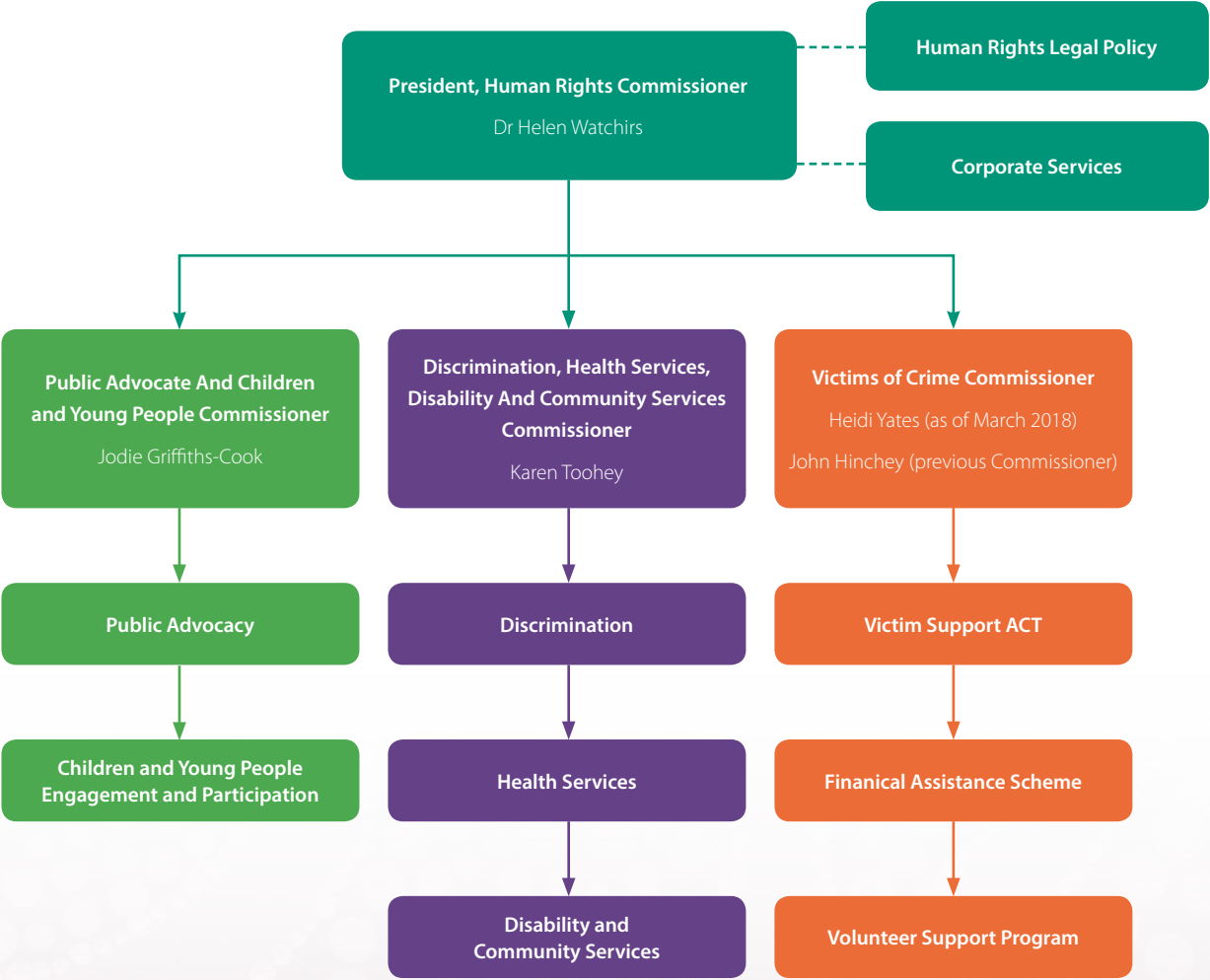
The Children and Young People Commissioner's work is founded on two principles: promoting children's right to protection, and promoting children's right to participation. To achieve this, the Commissioner tries to make sure the people who make decisions about laws, policies and services that affect children and young people are aware of their needs and perspectives.

While the role of Children and Young People Commissioner is a targeted one, with a focus on ensuring that relevant stakeholders listen to and seriously consider the views of children and young people, the role of Public Advocate extends to all persons within the ACT whose situation or condition gives rise to a need for protection from abuse, exploitation or neglect, or a combination of those things.

The responsibilities of the PACYPC are underpinned by a range of functions including advocacy (individual and systemic), representation, investigation, and monitoring. Some of these functions are specific to children and young people, and others include people with complex disability needs, including those with mental health conditions and/or forensic patients.

The PACYPC maintains a strategic and systemic focus to ensure that advocacy, monitoring and oversight functions (and the recommendations that we make to government and non-government agencies on legislation, policies, and practices) foster the provision of services and facilities, encourage program development, and improve the accessibility, responsiveness and quality of supports and services for persons experiencing vulnerability.

ACT Human Rights Commission Organisational Chart



Strategic plan 2017-2020

The Commissioners and Commission staff continued to work together throughout 2017-2018 to implement our Strategic Plan 2017-2020, which was developed in in April-May 2017. The Plan guides operations across the 2017-2020 period and will underpin the development of a Commission-wide communications strategy.

ACT Human Rights Commission STRATEGIC PLAN 2017-2020

OUR VISION

An inclusive community that respects and realises everyone's rights

OUR MISSION

We strive to achieve our vision by:

- leading positive systemic change
- engaging and educating the community
- delivering accessible services that empower and support people
- providing effective oversight

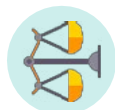
OUR VALUES



Respect



Collaboration



Integrity



Innovation



Accessibility



Independence

OUR PRIORITIES

1 Make human rights relevant to everyone

- help the community understand and exercise their rights and fulfil their obligations
- raise awareness about what we do, our impact and how to access help and support

2 Lead systemic change to address vulnerability

- reform law, policies and practices that impact rights
- effective and independent oversight that promotes accountability
- proactive monitoring to improve systems and address concerns

3 Enhance services and service delivery

- ensure our service provision recognises and realises everyone's rights
- deliver accessible and responsive client-centred services
- timely and effective complaint handling

4 Increase community engagement

- take a strategic approach to engagement activities and event participation
- provide the community with opportunities to engage and express their views to develop solutions together

DEVELOPING OUR CAPABILITIES

SHARED RESPONSIBILITY

- clarify our roles and the value we deliver
- work together with stakeholders to achieve our vision

AGILE STAFF

- a diverse and capable workforce
- value commitment and professionalism
- open and positive attitudes
- career growth opportunities

CLEAR OPERATING MODEL

- integrate operations
- increase collaboration and information sharing
- clearer lines of communication and accountability

IMPROVING SYSTEMS PROCESSES

- evaluate and enhance our systems
- efficient reporting, information and case management systems
- digitise customer service and engagement

Operations protocol

A draft Operations Protocol under s 18C of the *Human Rights Commission Act 2005* (ACT) is being developed to guide the Commissioners to fulfil their statutory roles and provide quality services to the community over the coming three years. The protocol will be refined as the expanded Commission discovers further synergies and ways to maximise collaboration within its new structure. It will be available on the Commission's website in the next reporting period.

Client services charter 2016-2019

Throughout the 2017-2018 year, the Commission continued to apply and implement its Client Services Charter 2016-2019, which it adopted in December 2016. The Charter is based on the Commission's commitment to human rights and belief that all people deserve to be treated with respect and dignity.

It explains what the Commission does, what clients can expect from it, how it provides services, and how to offer feedback to help improve its services.²

2 <http://hrc.act.gov.au/about-act-human-rights-commission/client-services-charter-2016-2019>

B.2 Performance

2017-2018 Highlights

1426

enquiries
received

&

623

complaints
received



30

formal written comments
on human rights issues
in legislative and
policy proposals

44

draft
Cabinet
Submissions
comments



assisted

1634

victims of crime



Public Advocate: advocated
for and monitored services
and supports for **2136** people



392

new applications received under victims
of crime financial assistance scheme.

Human Rights Commissioner

Strategic Priority 1: make human rights relevant to everyone

Working with the human rights sector

The President and Human Rights Commissioner, Dr Helen Watchirs, continued to chair the Australian Council of Human Rights Authorities (ACHRA) throughout 2017-2018, chairing meetings in Melbourne on 26-27 October 2017 and Sydney on 3-4 May 2018. In May 2018, Dr Watchirs completed her two year term as Chair of ACHRA, and the South Australian Commissioner for Equal Opportunity Niki Vincent will chair the next meeting in Adelaide on 18-19 October 2018.

The Discrimination Commissioner, Karen Toohey, is also a Council member. An ACHRA Officers Conference was held in Brisbane in October 2017, and several officers from the ACT Human Rights Commission attended the conference and delivered presentations, including Belinda Barnard, Gabrielle McKinnon, Kezlee Gray and Nat Brown.

Dr Watchirs met with Ms Jessie Majome, a prominent Zimbabwean human rights advocate and member of parliament, on 4 December 2017 during Ms Majome's time in Australia as part of the Department of Foreign Affairs (DFAT) special visits program. Dr Watchirs and Ms Majome discussed human rights frameworks and current human rights issues in Australia and Zimbabwe.

Dr Watchirs also met with an Iranian human rights delegation, organised by DFAT on 25 August 2017.

Working with the Aboriginal and Torres Strait Islander community

Innovate Reconciliation Action Plan 2015-2018

The Commission promotes reconciliation as part of its core work of improving the quality of services, and access to services, as well as protecting and promoting the human rights of Aboriginal and Torres Strait Islander peoples.

In 2015 the Commission adopted its third Innovate Reconciliation Action Plan 2015-2018 (RAP)³. The President is the Commission's RAP Champion and there is an internal RAP Committee that oversees the implementation of the plan. Throughout 2017-2018, the Commission continued to implement the plan, with a particular focus on Aboriginal and Torres Strait Islander employment at the Commission.

In this reporting period, Victim Support ACT's first full-time Aboriginal and Torres Strait Islander Victim Liaison Officer, Ms Tanya Keed, was appointed. Ms Nat Brown continued to work part-time in the Human Rights team.

Respecting culture: Aboriginal and Torres Strait Islander cultural rights in the HR Act project

Through the Commission's joint advocacy with the ATSIEB, the HR Act was amended in 2016 to give explicit legal recognition to Aboriginal and Torres Strait Islander people's cultural rights. The wording of section 27(2) was drawn from articles 25 and 31 of the United Nations Declaration on the Rights of Indigenous Peoples.

Throughout 2017-2018, the Commission continued to work on the Respecting Culture: Aboriginal and Torres Strait Islander Cultural Rights in the Human Rights Act Project, an initiative begun in 2016. Ms Natalie Brown from the Human Rights Legal Policy team was the Respecting Culture Project Coordinator for most of 2017-2018.

Throughout 2017-2018, further consultations were held with Aboriginal and Torres Strait Islander stakeholders to inform them about the s 27(2) cultural rights and hear about the lived experiences of the Aboriginal and Torres Strait Islander community. Ms Brown and other Commission staff also conducted a range of training sessions on cultural rights for stakeholders. These sessions included cultural rights training for the Murrumbung Rangers and senior executives of the Environment, Planning and Sustainable Development and Education Directorates and an information session on cultural rights for ACT Child and Youth Protection Services.

3 <http://hrc.act.gov.au/educationpublications/publications/reconciliation-action-plan-2015-2018>



Members of the EPSDD Murumbung Yurung Murra Network at the ACT Parks Stromlo Depot, after a Commission cultural rights training session in October 2017. Back row from left, Carly Freeman, Dean Freeman, Darren Chong, Hamid Saad; (middle row from left), Mary Mudford, Nat Brown from the Commission, Sally Moylan, Krystal Hurst, Deb Melaluca and Jess Spencer; with Jackson Taylor-Grant (kneeling at front).

Ms Brown and other Commission staff also delivered a presentation on the HR Act and cultural rights under s27(2) to year eight students at the Warrumbul Centre for Excellence for Aboriginal and Torres Strait Islander Students at Campbell High School on 29 August 2017. In October 2017, Ms Brown gave a presentation on cultural rights in the ACT at the ACHRA Officers Conference in Brisbane. Her presentation was well received by officers from other commissions.

The Commission arranged for a traditional smoking ceremony at the Commission's office, on 17 November 2017, to make the office more welcoming for Aboriginal and Torres Strait Islander employees, clients and guests. Members of ATSIEB, and staff from the Justice and Community Safety (JACS) and Community Services Directorate (CSD) attended this moving ceremony.

Other materials and communications tools for the Respecting Culture project, including a dedicated webpage, information brochure and social media, are being planned.

Aboriginal and Torres Strait Islander Elected Body

The Commission worked closely with ATSIEB in 2017-2018. It reported to the ATSIEB on its activities and gave evidence at an ATSIEB estimate-type hearing on 15 March 2018.

To commemorate the 10th anniversary of the UNDRIP and raise awareness of section 27(2) of the HR Act, the Commission and ATSIEB co-hosted a screening of the award-winning film *Zach's Ceremony*, on 13 September 2017 at the Museum of Democracy at Old Parliament House. *Zach's Ceremony* documents one boy's journey to manhood and explores what it means to be a modern man belonging to the oldest living culture on earth. Speakers at the event included:

- June Oscar AO, Australia's Aboriginal and Torres Strait Islander Social Justice Commissioner
- Geraldine Atkinson, Deputy Chair, SNAICC
- Katrina Fanning, ATSIEB Chair
- Jacob Keed, ATSIEB Member.

The event was attended by about 120 people, including Minister Rachel Stephen-Smith and Chief Police Officer Justine Saunders APM.

NAIDOC Family Day 2017



Performers at the NAIDOC Family Day at the University of Canberra, July 2017.

The Commission joined NAIDOC celebrations and hosted a stall at the NAIDOC Family Day at the University of Canberra on 2 July 2017. The day featured entertainment and live performances from Indigenous artists and musicians, Indigenous arts and crafts outlets and a range of other family activities.

Reconciliation Week 2018

To commemorate the ACT's first Reconciliation Day on 28 May 2018, the Commission hosted a stall at the ACT Government-sponsored *Reconciliation in the Park* event at Glebe Park. The event included live music, traditional dance, storytelling, bush tucker talks and other activities. We asked members of the public to write what reconciliation meant to them and took photos with their consent.



Owen McCourt, 9, expresses his thoughts about reconciliation at the Commission's stall at Reconciliation in the Park, May 2018.

Raising human rights awareness and impact

As part of its commitment to leading and embedding systemic change within the ACT public sector and increasing awareness of human rights issues in the community, Commission staff delivered training and presentations on human rights and discrimination to a wide range of people and groups in the ACT throughout the course of 2017-2018. Some of these training sessions and presentations were generic in nature, while others were tailored to the specific work and needs of ACT public authorities and employees. (See Section N: Community Engagement and Support for more information.)

Strategic Priority 2: lead systemic change to address vulnerability

Oversight of places of detention

The Commission convenes regular oversight agency meetings in relation to the operations and conditions of ACT's detention facilities including Bimberi and the AMC in order to share information and discuss concerns, without the authorities from the detention facilities present. Other oversight agency representatives, including the ACT Ombudsman, Official Visitors, Prisoners Aid and Winnunga Nimmityjah Aboriginal Health and Community Services also attend.

The Commission attends regular meetings, convened by ACT Corrective Services, with the AMC General Manager.

The Commission maintained a close monitoring role for Bimberi throughout 2017-2018. Oversight functions performed by the PACYPC include reviewing segregation, strip search and use of force registers. The Discrimination, Health Services, Disability and Community Services Commissioner commenced a Commission-initiated consideration of Bimberi. (See section on Bimberi Youth Justice Centre for more information.)

Review of Cabinet submissions and other human rights consultations

The Commission reviewed draft Cabinet submissions in 2017-2018 for compatibility with the HR Act and other standards, principles and policies applicable to our work.

The Commission provided formal comments on approximately 44 of the numerous draft Cabinet submissions we reviewed. Due to the Cabinet-in-Confidence status of the submissions, further information on these comments cannot be revealed. In the overwhelming majority of cases in which the Commission made formal comments on submissions, and particularly where we requested changes to draft legislation and subordinate legislation, the relevant directorates took the Commission's comments into consideration and made necessary changes to the submission, draft policy document or draft legislation or subordinate legislation as applicable. The Commission commends the ACT Government's commitment to working collaboratively with the Commission and making necessary changes to ensure its submissions and proposed policies and legislation are compatible with the HR Act.

A number of ACT Government directorates also consulted the Commission directly and requested advice on the human rights compatibility of a range of policy and legislative proposals throughout the course of 2017-2018. While the vast majority of these consultations were confidential in nature and cannot be summarised here, the nature and/or details of others are to some extent publicly available and can be briefly summarised as follows:

- The Commission is working with the ACT Government to implement the recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse and to ensure that any political or legislative changes which are progressed as part of the implementation process are compatible with the HR Act.
- The Commission was consulted on the Draft Human Rights Standards for ACT Corrective Services, in conjunction with the new Inspector of Correctional Services.
- The Commission was consulted by Caroline Le Couteur MLA during the development of the *Private Members Bill Health (Improving Abortion Access) Amendment Bill 2018* and provided advice on how to ensure the Bill's compatibility with the HR Act.
- Various teams across the Commission worked together to provide extensive advice to the CSD on the *Senior Practitioner Bill 2018* before it was introduced in June 2018.

Advocacy on raising the age of criminal responsibility

The Commission wrote to the Attorney-General in December 2017 to reiterate our call for the ACT Government to review the age of criminal responsibility in the ACT, in light of recommendations made by the *Royal Commission into the Protection and Detention of Children in the Northern Territory*. Since its 2005 human rights audit into Quamby, and again in its 2011 Bimberi Report, the Commission has consistently recommended that the minimum age of criminal responsibility should be raised from 10 to at least 12 years, in line with international human rights standards and rights protected in the *Human Rights Act 2004*. The United Nations Committee on the Rights of the Child has confirmed that 12 years of age should be the absolute minimum age for criminal responsibility. The median age of criminal responsibility around the world is 14 years of age based on the understanding that children younger than 14 are not considered developmentally mature enough to be criminally liable.

Increasing the minimum age of criminal responsibility would not abrogate the Government's responsibility to protect the community and to address situations where younger children commit serious acts of violence or become involved in other criminal activity. It would, however, require a shift in focus to providing therapeutic support and assistance to these children and their families, to address the causes of this behaviour, which often reflect trauma or other complex needs. As the first jurisdiction in Australia to provide legislative protection for human rights, the ACT is in a strong position to provide leadership on this issue, as all Australian jurisdictions reflect upon the important lessons from the NT Royal Commission.

Human rights and policy submissions

The Commission also contributed numerous submissions to inquiries raising human rights and policy issues relevant to our work. The following are some of the significant occasions on which advice and submissions were provided in 2017-2018:

- Submission to the Religious Freedom Review: The Commission provided a submission to the Expert Panel on Religious Freedom inquiry into whether Australian law (Commonwealth, State and Territory) adequately protects the human right to freedom of religion. The Commission emphasised that the ACT has a comprehensive human rights framework to protect freedom of religion and to protect against discrimination and vilification on the basis of religious conviction; and submitted that any changes to federal law to improve protection of religious freedom should not result in any diminution of existing rights or protections currently enjoyed by Territorians.
- Submission to the Inquiry into End of Life Choices in the ACT: The Commission's submission to the Select Committee on End of Life Choices in the ACT inquiry emphasised the human rights issues that are raised by current laws that prevent people living in the ACT from having the ability to seek changes, through their elected representatives, to ACT laws in order to permit voluntary assisted dying. The submission also highlighted the human rights issues that may arise in relation to voluntary assisted dying legislation in the ACT and provided suggestions on how these issues may be addressed. The President and Human Rights Commissioner and staff also appeared and gave evidence before the Select Committee on End of Life Choices during their inquiry hearings.
- Response to the Australian Human Rights Commission's May 2017 '*OPCAT in Australia Consultation Paper*': The Commission emphasised the current gaps that exist in the detention oversight framework in the ACT and provided views on how the UN *Optional Protocol to the Convention against Torture* (OPCAT) should be implemented in the ACT. The OPCAT was ratified by the Federal Government in December 2017, and the ACT Government subsequently passed the *Monitoring of Places of Detention (Optional Protocol to the Convention Against Torture) Act 2018* (ACT) to provide a legal framework for the UN Subcommittee on Prevention of Torture (SPT) to visit the ACT and inspect ACT places of detention.
- Response to the ACT Supreme Court Working Group consultation paper: 'A Drug and Alcohol Court for the ACT: Issues and Draft Proposals for Consultation': The submission welcomed the ACT Government's commitment to establishing an ACT drug and alcohol court (DAC), while emphasising the safeguards that would be required to ensure any DAC program operates consistently with the HR Act.
- Response to the ACT Law Reform Advisory Council's June 2017 Issues Paper: '*Canberra – becoming a restorative city*': The submission highlighted the synergies between restorative justice practices and values and human rights and argued that more creative, inclusive, accessible and collaborative approaches to social problems are required to fulfil the objective of making Canberra a city using the principles of restorative justice. Among the reform proposals advanced by the Commission were legal changes providing access to conciliation (conducted by the Commission) and to ACAT for human rights disputes. For several years the Commission has recommended that Canberrans have better access to justice by being given the right to complain about human rights breaches to the Commission in a similar way to discrimination matters, with a further right of referral to ACAT, rather than using the more costly, resource intensive and time-consuming Supreme Court litigation, which has been under-utilised.
- Submission to the Standing Committee on Administration and Procedure's Review of Standing Orders and Continuing Resolutions of the Legislative Assembly.⁴ This submission sought to identify some of the ways in which the Legislative Assembly's current practices and procedures for human rights scrutiny could be enhanced to reflect best practice and improve the Assembly's engagement with human rights standards in the legislative process.

Further, the Commission proactively commented on important human rights issues outside formal consultation and submissions processes. Examples of such comments include:

- Letter to ACAT regarding the provision of interpreters to parties with limited English: The Commission wrote to the ACAT in July 2017 after it came to our attention that parties to civil proceedings before the Tribunal who spoke very limited English were not always being provided with free interpreters. In this letter, the Commission emphasised that when the Tribunal determines whether a party to proceedings requires an interpreter to effectively participate in those proceedings, the Tribunal is acting in an administrative capacity; and as such, is a 'public authority' for the purposes of the HR Act. Accordingly, when making such decisions, the Tribunal has obligations to act compatibly with human rights and to give proper consideration to human rights, including the right to a fair hearing and the right to equal protection of the law without discrimination. The President of ACAT responded to the Commission in late July 2017 to inform us that they were reviewing their practices regarding interpreters at that time. ACAT has recently changed information on its website about the provision of interpreters. An earlier message said that parties to civil matters other

4 <https://www.parliament.act.gov.au/in-committees/standing-committees-current-assembly/standing-committee-on-administration-and-procedure/inquiries/review-of-standing-orders>

than guardianship, mental health or energy and water matters should make their own arrangements for an interpreter. The revised information suggests that ACAT will seek to organise an interpreter free of charge for parties to any kind of matter who inform the Tribunal they need an interpreter; and that there are only limited circumstances in which ACAT will not provide an interpreter. The Commission is very pleased to see this development, following a successful budget bid by ACAT for funding for interpreters.

- Letters to the Government and Scrutiny Committee about the Crimes (Child Sex Offenders) Amendment Regulation 2017 (No 1): The Commission wrote to both the Government and to the Standing Committee on Justice and Community Safety (Legislative Scrutiny Role) to bring to their attention concerns about the compatibility of the Crimes (Child Sex Offenders) Amendment Regulation 2017 (No 1) with the HR Act. We also noted that the Explanatory Statement for the amendment regulation was silent on its human rights implications and did not assist members of the Legislative Assembly and the public to understand the effect, background and nature of the amendments.

Strategic Priority 3: enhance services and service delivery

Law Reform Advisory Council

The President and Human Rights Commissioner, and new Victims of Crime Commissioner, Heidi Yates continued to serve as members of the Law Reform Advisory Council (LRAC) in 2017-2018.

In 2017-2018, the Council received submissions in response to its June 2017 Issues Paper *Canberra – becoming a restorative city* as part of its ongoing inquiry into ways to realise the ACT Government's commitment to make Canberra a city of restorative justice, with a focus on legal and justice dimensions. A final report to the Attorney-General is due in September/October 2018.

Human rights advice to MLAs

The Parliamentary Agreement for the Ninth Assembly of the ACT, signed in October 2016, enables all Members of the Legislative Assembly (MLAs) to seek independent formal advice from the Commission, including human rights assessments of non-executive bills, without requiring permission from or notification to the Attorney-General.

The Commission welcomed this agreement. To ensure transparency, the Commission adopted a policy that formal written advice to MLAs would be published on the Commission's website.

In line with the agreement, the Commission provided formal written advice to:

- Alistair Coe MLA regarding the human rights of ACT public servants in relation to the participation of the ACT Government in the campaign for marriage equality in September 2017
- Jeremy Hanson MLA on the exposure draft of the *Crimes (Criminal Organisation Control) Bill 2017* on 11 September 2017
- Caroline Le Couteur MLA on the exposure draft of the *Crimes (Consent) Amendment Bill 2018* on 26 March 2018.

Discrimination, Health Services, Disability and Community Services Commissioner

The Commissioner has responsibility for:

- handling all complaints received by the Commission, including complaints about alleged discrimination, health services, disability services, services for older people, and services for children and young people
- promoting awareness of rights and obligations provided for by the HRC Act, the *Discrimination Act 1991* and the *Health Records (Privacy and Access) Act 1997*
- improving service provision and outcomes for people protected by the Acts
- using Commission-initiated consideration powers to address systemic issues
- promoting an understanding of, and compliance with, the Acts
- providing education and training about the Acts and associated rights and obligations
- contributing to legislative and policy development across the jurisdictions administered by the Commissioner.

Strategic Priority 2: lead systemic change to address vulnerability

Commission-initiated considerations

A Commission-initiated consideration may begin where there is a concern a systemic problem may exist, that is, where: a number of complaints or notifications about a particular practice or organisation are received; a complaint is made anonymously; the person does not have personal standing, capacity, involvement or authority to make a complaint; or where the community raises an issue, such as in the media. In these circumstances the Commissioner in effect becomes the complainant and matters are investigated as a complaint. The Commissioner generally works with organisations to resolve any issues identified during the investigation process – this might include updating policies or practices, undertaking staff training or recruitment, and making recommendations to improve service delivery or compliance with relevant standards.

The Commissioner can make formal recommendations and in those cases will seek evidence of compliance or revisit the issues or organisation after an agreed review period.

In 2017–2018 the Discrimination, Health Services, Disability and Community Services Commissioner began 12 new Commission-initiated considerations and closed 7.

Table 1: Commission-initiated considerations

Jurisdiction	New	Closed
Health	7	5
Discrimination	1	-
Disability	2	1
Children and Young People	2	1
Total	12	7

Methadone prescribing at AMC

Mr Philip Moss's *Report of the Independent Inquiry into the Treatment in Custody of Mr Steven Freeman: So Much Sadness in Our Lives* (the Moss Report) recommended "that the Health Services Commissioner (of the ACT Human Rights Commission) conduct an own-initiative investigation into the prescription of methadone to detainees at the AMC".

The Commissioner's report was completed in March 2018.

The report made 16 recommendations, relating to the following:

- Assessment for eligibility to the Opioid Replacement Therapy (ORT) program
- Monitoring of intoxication and overdose
- Dosing procedures
- Preventing and responding to diversion
- Through-care for detainees transitioning to the community
- Needle and syringe exchange program.

This review analysed current practice and operation in the provision of ORT at the Hume Health Centre at the AMC. While a number of concerns have been raised about the program over time, it is clear that significant improvements have been made to the ORT program at the AMC since the death of Mr Steven Freeman. The implementation of the revised Clinical Procedure and associated changes will strengthen the consistency and rigour of assessment decision making. Changes have been made to address risks associated with the induction period, including changes to dosing, and increased monitoring and information sharing. The move to an idose automated dispensing system is an important improvement to reduce risks of human error and misidentification of detainees. However, this system needs to be implemented consistently across the prison and immediate attention must be given to ensuring that methadone can be safely dispensed where an idose machine is not able to be used. This report identified areas where further work is required to maintain these improvements and to continue to strengthen the ORT program at the AMC, and made a number of recommendations to safeguard and consolidate these improvements.

At the time of writing, the government response to the report has not yet been released and will be reported in the next reporting period.

Bimberi Youth Justice Centre

The Commission continued its Commission-initiated consideration into Bimberi, looking into a range of allegations and concerns about the treatment of young people at Bimberi in the period from 2014 to 2017. The Commission has interviewed numerous stakeholders, young people and Bimberi staff, visited Bimberi on numerous occasions, reviewed a large amount of information and formal written responses provided to the Commission including Bimberi registers, induction training materials, CCTV footage, incident reports and on-site inspections. Some crucial information was not received until late June 2018 and resource constraints together with residual issues of concern have delayed the finalisation of the report beyond the expected timeframe. This has however allowed the review team to benefit from the availability of similar work being undertaken in other jurisdictions.

Use of confinement in emergency department

The Commission investigated allegations that the use of confinement was being under-reported in the de-escalation unit of an emergency department in an ACT hospital. The Commission met with clinical representatives from the hospital, as well as the Public Advocate's team to discuss the investigation and subsequently received advice that:

- the hospital had implemented a new register to record episodes of patient confinement who do not fall under the *Mental Health Act 2015* (for example, drug-affected patients)
- staff education had been initiated in relevant areas, in relation to staff's record-keeping obligations regarding all episodes of confinement, seclusion and the forced administration of medication
- Public Advocate representatives would now attend the hospital's monthly meeting to discuss episodes of confinement.

The Commission was satisfied on the basis of this information that no further investigative activity was required by the Commission, and the matter was closed.

Alleged misuse of personal information

The Commission initiated an investigation into the conduct of a disability advocate, who was alleged to have accessed personal client information provided to an advocacy service. The advocate allegedly used that information to contact clients to provide support co-ordination in a private capacity.

The Commission made contact with the disability advocate, who advised they did not have clients' contact details in their possession. They explained they were contacted by third parties who were providing support coordination for clients, but did not have direct contact with the clients themselves.

On the basis of the disability advocate's response and information provided, the Commission was satisfied the complaint had been investigated satisfactorily, and was closed.

Support for residents in disability rehabilitation service

Concerns were raised by a former staff member that there were inadequate staffing levels and experience at a residential disability rehabilitation facility. During the course of the investigation the service provider identified there had been issues recruiting staff locally and temporary arrangements rostering staff from interstate had not always been successful resulting in intermittent gaps in staff numbers and skills.

Over the course of the investigation the provider had implemented a new recruitment process and changed the profile and rostering of staff to ensure ongoing adequate resources at the facility. The Commissioner visited the facility and met with residents and management. Residents were very happy with the staff and with the programs available. The Commissioner finalised the matter on the basis that the issues identified by the notifier had been addressed.



Former Victims of Crime Commissioner, John Hinchey (back, centre), with Commission staff supporting Wear it Purple Day, August 2017.

Strategic Priority 3: enhance services and service delivery

In 2017–2018, the Discrimination, Health Services, Disability and Community Services Commissioner received 1426 enquiries and 623 complaints:

- enquiries we handled rose 18% from 1207 in 2016-2017 to 1426 in 2017-2018
- complaints received rose 23% from 507 in 2016-2017 to 623 in 2017-2018
- complaints finalised rose 19% from 492 in 2016-2017 to 585 in 2017-2018
- discrimination complaints received rose 118% from 76 in 2016-2017 to 166 in 2017-2018
- discrimination complaints finalised rose 62% from 77 in 2016-2017 to 125 in 2017-2018
- client satisfaction with the complaint process rose from 75% in 2016-2017 to 81% in 2017-2018.

In 2017-2018 the Commissioner's team undertook a range of community engagement and training activities to ensure people were aware of the Commission's complaints process and of the individual and systemic outcomes that can be achieved through effective complaint handling. The team focused on ensuring the process is accessible to vulnerable community members and this is reflected in an increase in complaint numbers across all areas.

The Commissioner and her staff worked actively with members of the Aboriginal and Torres Strait Islander community and this was reflected in an increase in community members utilising the complaint process. Complaint numbers from people who identified as Aboriginal and/or Torres Strait Islander rose overall from 9 in 2016-2017 to 40 in 2017-2018, a 344% increase.

Table 2: All complaints in 2017-2018

Complaint type	Enquiries	Complaints	Commission-initiated considerations
Children and Young People	65	21	2
Disability	85	26	2
Discrimination	353	166	1
Health Services	480	418	7
	(including 172 AHPRA complaints and 26 Veterinary Surgeons Board complaints)		
Human Rights	38	0	0
Out of Jurisdiction	394	0	0
Older People	11	2	0
Total	1426	623	12

High satisfaction with complaint handling

The Commission measures satisfaction with its complaint process by asking parties to complete an evaluation form when complaints are closed. The high level of client satisfaction with the Commission's complaint handling in 2017–2018 reflects the ongoing effort to streamline the process and focus on early resolution of matters.

Parties to complaints provided positive feedback about the benefits of the Commission's complaints process. Comments included:

- I obtained a fair outcome. It's nice to have somebody listen to your complaint and address the complaint.
- I felt that I was sticking up for my rights as a human being! I attained (after nearly 3 months) the answers to my questions/ concerns that I had been discriminated against. And I felt that I had been compensated fairly for the distress that I and others experienced.
- I had the opportunity to air my grievance to someone who was not involved in or with the medical services and someone who would take into account our account of the disagreement with our doctor.
- It reminded me of the significant impact any work we do has on patient outcomes. Also it always reminds us of the importance of clear communication.

- Not many steps in the process, no lawyers.
- Fair, sympathetic service, that was able to listen and respond to a complaint, as well as advocate for improvements to services where required.
- It allowed me to address the people involved directly, so they could see the impact of their actions, and allowed me to try and ensure this will not happen to someone else.
- To know that there is a dedicated service where a complaint can be submitted to, and that said complaint will be assessed objectively and in the appropriate context, ultimately to the benefits of all parties.

Health services

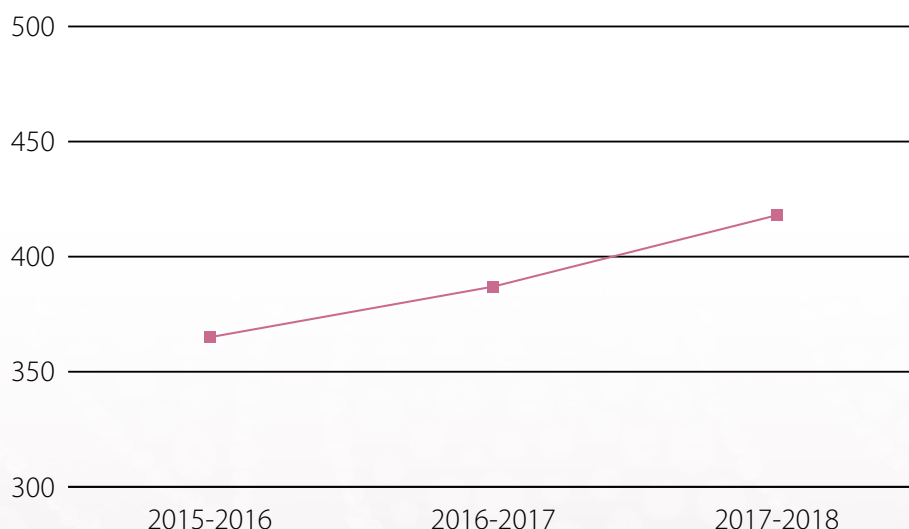
ACT community members can make a complaint to the Health Services Commissioner about any health service provided in the ACT, including public and private health services, individual practitioners and health services provided in settings such as aged care facilities, supported accommodation, and schools. The Commission's health service complaint process provides parties a chance to resolve a complaint through informal alternative dispute resolution processes.

Complaints can be made about any registered health practitioner such as medical practitioners, dentists, nurses and midwives, chiropractors and psychologists. The process is managed under a co-regulatory model with the Australian Health Practitioners Regulation Agency (AHPRA) and national boards of the fourteen registered practitioner professions. In 2018 the Paramedicine Board was established and registered paramedics will be regulated by AHPRA from the end of 2018.

The Commissioner also handles complaints about veterinarian services in the ACT under a co-regulatory model with the ACT Veterinary Surgeons Board.

The complaint handling team responded to 480 health service related enquiries. It received 418 health service complaints. Of these, 220 were received directly by the Health Services Commissioner, 172 new matters from AHPRA, and 26 from the ACT Veterinary Surgeons Board.

Figure 1: Health services complaints 2016–2018



Of the 220 health complaints received by the Commission in 2017–2018, the majority of the primary issues raised in the complaints were about treatment. This includes inadequate treatment, care and/or consultation, incorrect or delayed diagnoses, delays in treatment, rough and painful treatment, inappropriate treatment, and unexpected outcomes to treatment. Communication issues were also a common cause for complaint to the Commission.

Table 3: Health complaint issues

Issue	Number of complaints
Treatment	123
Communication	27
Medication	15
Fees and costs	11
Access	11
Medical records	9
Consent	7
Environment/management of facilities	6
Professional conduct	4
Reports and certificates	4
Discharge and transfer	3
Total	220

Of the 220 complaints about health services lodged with the Commission during the year, 105 related to ACT Health. This is an increase of 21 more complaints than the previous reporting period. The increase was mainly seen in complaints against Justice Health, which rose from 18 to 32.

Table 4: Complaints by ACT Health Directorate area

Health Directorate	Number
Justice Health (including AMC dental)	32
Canberra Hospital	44
Mental Health ACT	14
Calvary (Public) Hospital	10
Other (including ACT Ambulance Service)	5
Total	105

The Commissioner received 45 complaints related to private sector organisations. Of these, 14 were in relation to a service provided by a general practice, 10 in relation to private hospitals, and 5 in relation to dental practices. The remaining related to other health services, including pharmacy, aged care facilities and laser skin clinics.

Individual providers were named in 71 complaints, 50 were medical practitioners, 12 were dental practitioners and 4 were nurses/midwives. The remainder related to other professions involved in health service delivery, including pharmacists, optometrists and radiographers.

Working with the Australian Health Practitioner Regulation Agency

Every health profession in the ACT that is part of the National Registration and Accreditation Scheme is represented by a National Board. While the primary role of the Boards is to protect the public, the Boards are also responsible for registering practitioners and students for their professions, as well as other functions.

AHPRA supports the National Boards in their primary role of protecting the public and works with the Health Services Commissioner to deal with complaints about individual registered health practitioners.

The *Health Practitioner Regulation National Law* (National Law) requires national boards and the Commissioner to jointly consider how to action complaints against registered health practitioners. The Boards and the Commissioner jointly decide whether to investigate a practitioner, take regulatory action against a practitioner or close a complaint with no further action.

While the complaint process requires joint consideration of matters with the Commissioner, only national boards can take regulatory action against individual health practitioners, such as imposing conditions, requiring a performance assessment or referral to a tribunal to deregister a practitioner. Practitioners can appeal reviewable decisions to the ACT Civil and Administrative Appeals Tribunal (ACAT).

In May 2018, the Commissioner presented to the Sexual Boundaries Notification Committee, a newly established sub-committee of the Medical Board of Australia that handles complaints of sexual misconduct against medical practitioners. The Commissioner's presentation considered the overlap with and learnings from discrimination jurisdictions, and how they may be relevant to the work of the Committee. This included information about sex discrimination and sexual harassment complaint handling, and ongoing work to address systemic issues.

AHPRA can refer matters to the Health Services Commissioner if they raise issues outside of its jurisdiction, such as issues related to systemic concerns about a health service, rather than about an individual registered practitioner. In 2017-2018, AHPRA referred 17 matters to the Commission, an increase from 10 matters in 2016-2017. The Commissioner can also refer matters to AHPRA, such as where a matter raises serious concerns that may warrant immediate regulatory action. The Commission referred 12 matters to AHPRA, a decrease from the 14 matters referred in the previous period.

The Commissioner and AHPRA jointly considered 327 matters in 2017-2018. This is an increase from the 300 matters in 2016-2017. Each matter may require multiple joint consideration decisions before it is finalised. The Commissioner jointly considered 551 decisions with AHPRA in 2017-2018, an increase of 75 from the 476 decisions with AHPRA in 2016-2017.

Immediate action was taken against practitioners in 11 matters, less than in the previous period (22). Immediate action may include suspension of a practitioner's registration pending further investigation or a health assessment, or conditions imposed on the practitioner's registration including supervision or restrictions on prescribing certain medications.

The Commissioner and the Boards jointly decided health assessments were required in response to 2 matters in 2017-2018, and performance assessments were required in response to 6 matters.

In 2017-2018, the Commission closed 254 matters about individual registered practitioners. This is an increase of 36% from the 187 matters closed in 2016-2017. Please note the total numbers in the table below do not equal 254 as some matters had multiple final outcomes (i.e. both a caution and conditions).

Table 5: Health service complaints, individual practitioner, final outcome

Board	No further action	Caution	Conditions	Referral to Health Services Commissioner
Chiropractic	–	1	–	–
Dental	14	5	1 (education); 2 (education and supervision); 1 (education, audit)	–
Medical	99	9	1 (restricted access to medication, education); 1 (mentoring, audit)	4
Medical Radiation Practice	4	–	–	–
No Board involved				5
Nursing and Midwifery	43	5	1 (supervision); 1 (limitations on place of practice, supervision, education); 1 (supervision, education); 2 (mentoring)	6
Optometry	3	–	–	–
Pharmacy	3	–	–	2
Physiotherapy	1	1	1 (mentoring)	–
Psychology	20	3	1 (not to practise); 1 (supervision)	–
Veterinary	20	–	1 (restriction of practice, education, supervision)	–
Total	207	24	15	17

ACT Veterinary Surgeons Board

The Commissioner jointly considers matters about veterinarians' conduct with the ACT Veterinary Surgeons Board. In 2017-2018, the Commissioner received 26 new matters, a significant increase on 9 matters last year. This increase can be attributed to receiving multiple complaints about individual practitioners. Twenty-one matters were closed in the reporting period.

During 2017-2018 the Commissioner worked with the ACT Veterinary Surgeons Board on a review of the existing legislation applicable to veterinary surgeons and participated in public consultation sessions about proposed reform to the ACT legislative framework.

Finalised health services complaints

The Commissioner closed 192 health service complaints in 2017-2018.

Table 6: Finalised health services complaints

Closure reason	Number of complaints
More than 2 years elapsed since the circumstances that gave rise to the complaint happened	1
Complainant failed to take reasonable steps to resolve the complaint	1
Lacks substance	1
Complaint has been, or is being, dealt with by a court or tribunal or has been dealt with by the Commission	2
Complainant has failed to comply with s73 or s74 requirement (providing information relevant to a complaint)	4
Referred to a health profession board	5
The complaint has otherwise been resolved	9
Successfully conciliated	17
Conciliation is unlikely to succeed	18
Given a reasonable explanation and needs no further action	43
The complaint has been considered to the Commission's satisfaction	91
Total complaints closed	192

Conciliation of health service complaints

Health service complaints can be resolved through discussion with the parties or be referred for conciliation. Conciliation is an informal and accessible process in which Commission staff help parties resolve a complaint. The conciliation process is confidential.

Conciliation outcomes may include an apology or statement of regret, explanation of the services provided, acknowledgement of issues with service delivery, or changes to a service provider's policies and procedures to improve the quality of service delivery. Parties can negotiate financial outcomes to reimburse costs incurred, associated future medical costs, or to compensate economic and non-economic loss and/or damage.

Health case studies

Case studies assist the community to understand the types of issues that arise in complaints brought to the Commission and how those matters may be resolved. Complaints are generally dealt with on the basis there has been no admission of liability. Our role is to assist the parties where possible to the resolution of matters. Cases below have been de-identified to ensure the privacy and confidentiality of the complaint handling process.



Delay in booking a surgical procedure

The Commission received a complaint from a man who stated that he was seen at a public hospital outpatient clinic, and was assessed as requiring a surgical procedure.

After seven months without hearing from the hospital, the man contacted the relevant unit, and was informed that he was not on the waiting list. The administrative staff advised the man that they could see that he had been assessed, and that he required the procedure, but they were unable to locate his referral. He was reassured that they would solve the problem.

This phone conversation was then repeated, on a monthly basis, for several months, with the man remaining unsuccessful in his attempts to secure a place on the waiting list.

After almost a year, the man contacted the Commission. On receipt of the complaint, the hospital was able to establish that the man's referral had been lost. The hospital reissued the referral, backdated to his original appointment so he was not disadvantaged by the administrative error.

The man was satisfied with the outcome, but the Commissioner was concerned that this situation could recur without systemic changes being implemented. She therefore suggested that the hospital advise patients to expect a letter confirming placement on the waiting list, and that if this does not occur, the patient should contact the relevant unit.

She further recommended that the booking process be reviewed, to ensure that actions taken by administrative staff in response to contact from the patient, be logged and followed up.



Treatment in emergency department

A man made a complaint about the circumstances of his mother's death after she had presented to hospital following a fall. The man alleged the hospital discharged his mother on the same day as the fall without diagnosing a fracture, and encouraged his mother to keep moving and see her GP for review. His mother was subsequently found unresponsive and she was taken to hospital where she died the following day. The man was seeking an explanation about the circumstances relating to his mother's death, a review of procedures or further training, and an apology.

The Commission invited the hospital to respond to the concerns raised by the man. The hospital acknowledged that a fracture had been diagnosed however the woman's treating doctor was not aware that the x-ray had been reviewed by a radiologist and a report was available prior to discharge. The treating doctor made a provisional diagnosis of musculoskeletal injury based on physical assessment and review of the x-ray films. The hospital considered that the woman was appropriately assessed as being able to mobilise and was suitable for discharge with pain relief and planned review with the GP.

The man disputed aspects of the hospital response particularly in relation to suitability for discharge. The matter was referred to conciliation where the matter was able to be resolved.



Regulatory action taken regarding a nurse

A woman complained that while her son was being treated in hospital for an infection, his IV dislodged resulting in an injury. The woman complained that the IV site wasn't checked often enough, and that the injury was not managed appropriately. The woman said that a nurse who was responsible for her son's treatment for an extended period of time did not check his IV site despite her raising concerns about it.

The Commission sought responses from the hospital and the nurse and reviewed clinical records and relevant policy and procedure documents. The Commission identified that while there was no relevant guideline to inform the nurse's immediate management following the injury, she did not follow the relevant hospital procedure by failing to check the cannula site prior to administering antibiotics.

Following joint consideration with the Nursing and Midwifery Board, relevant regulatory action was taken against the nurse.



Falls in an emergency department

A daughter made a complaint against a hospital on behalf of her mother. She reported her mother attended an emergency department where she fell twice when she was taken to the bathroom by a nurse in a wheelchair. The daughter reported the two falls resulted in her mother breaking her arm and her hip.

The complaint resolved with an agreement that the hospital would cover the costs of home physiotherapy sessions and provide other necessary equipment.



Billing practices

A man contacted the Commission to raise concerns of billing practices by a dental prosthetist. The man said he was not provided with a quote prior to the treatment being performed. After the appointment, he was given a business card with the amount owing hand written on it and directions to go to a particular bank shopfront to deposit the money directly into the practitioner's account. After writing a letter to the practitioner, the man was sent a proper invoice.

After receiving a response from the practitioner including the clinical records, the matter was jointly considered by the Commission and AHPRA. Regulatory action was taken against the prosthetist. The Commission then facilitated settlement of the complaint and a partial reimbursement was received by the complainant.



Inappropriate prescription of antibiotics

The Commission received a complaint from a man who had taken his unwell child to the GP. The GP identified the child likely had a viral illness, requested a sample be collected for pathology, and recommended simple management which included pain relief and oral fluids.

The child did not improve, and two days later the child was again brought to the same GP. The pathology results were not yet available, but the GP decided to prescribe antibiotics without waiting for the results.

The child's condition deteriorated, and he was taken to hospital. His family was advised that the antibiotics were inappropriate for his condition and may in fact have worsened the child's symptoms.

On receipt of the complaint the GP acknowledged his error. He advised that it was not his usual practice to prescribe antibiotics without first having pathology results to inform his management. The GP advised that he was aware of a significant bacterial infection in the community at the time, which is why he prescribed antibiotics in this instance.

The family accepted the response received from the GP. The Australian Health Practitioner Regulation Agency (AHPRA) was notified, and the complaint was jointly considered by the Commissioner and the Medical Board. The decision reached was to take no further action against the GP.

National Code of Conduct for Unregistered Health Care Workers

The aim of the National Code of Conduct for Unregistered Health Care Workers is to protect the public by setting minimum standards of conduct and practice for all unregistered health care workers providing health services. The Code sets national standards against which disciplinary action can be taken and, if necessary, a prohibition order issued where a health care worker's continued practice presents a serious risk to public health and safety.

The Health Services Commissioner continued to collaborate with Australian Health Complaint Commissioners in the other States and Territory, ACT Health and the Victorian Department of Health and Human Services on implementing the Code in the ACT. The Commissioner continued to contribute to related activities, including developing a common framework for nationally consistent data collection with annual performance reports to the COAG Health Council, developing a common web portal and developing a National Code of taxonomy of complaints and a National Code taxonomy of service types.

Discrimination

In the discrimination jurisdiction, the Commissioner's role is to handle discrimination complaints, promote equality, examine systemic discrimination concerns and provide community education and information about rights under discrimination law. The Commissioner also handles sexual harassment and vilification complaints and exemption applications.

The role of the Commissioner is very broad, covering most areas of public life (including employment, education, access to premises, accommodation, clubs, and goods, services and facilities) with a wide range of protected attributes.

The Commissioner works with community members, organisations and government to build awareness of the rights and obligations under discrimination law and participates in a range of community events, information sessions and committees to promote compliance with discrimination laws and a safe, inclusive and diverse community.

Discrimination complaints

There were 353 discrimination-related enquiries in 2017–2018, up from 294 last year. The Commission also received 38 human rights-related enquiries. While the Commission does not have the jurisdiction to handle human rights complaints, these enquiries often relate to its human rights and discrimination systemic, policy or litigation work.

There were 166 discrimination complaints lodged with the Commission during the reporting period. This is a significant increase from the 78 complaints lodged the previous year. The number of discrimination complaints from people who identified as being Aboriginal or Torres Strait Islander rose from 2 in 2016–2017 to 24 in 2017–2018.

The Commission received its first complaints on the grounds of accommodation status, subjection to family and domestic violence, irrelevant criminal record, physical features, and disability vilification following amendments to the *Discrimination Act 1991* that commenced in 2017 to include these grounds.

A discrimination complaint can be made on more than one ground. The most common ground was disability, with 64 matters. Race was the second most common ground of complaint, with 34 complaints, followed by sex discrimination with 18 complaints.

Table 7: Complaints by discrimination ground

Complaint	2017-2018	2016-2017	2015-2016	2014-2015
Disability	64	40	52	43
Race	34	18	25	12
Sex	18	13	7	3
Age	9	4	4	6
Sexual harassment	7	6	6	6
Status as a parent or carer	7	9	5	3
Victimised	6	3	9	11
Profession, trade, occupation or calling	6	4	3	1
Vilified on ground of race	5	7	12	4
Sexuality	5	2	8	1
Irrelevant criminal record (previously spent conviction)	7	1	5	–
Gender identity	5	3	4	4
Assistance Animal	5	3	3	2
Immigration status	5	1	–	–
Accommodation Status	4	–	–	–
Pregnancy including potential pregnancy	4	1	1	1
Vilified on grounds of religious conviction	4	1	–	–
Physical Feature	2	–	–	–
Religious conviction	2	2	7	–
Political conviction	2	–	6	1
Vilified on grounds of sexuality	2	1	4	7
Industrial activity	2	–	1	1
Vilified on grounds of gender identity	2	–	1	2
Family and domestic violence	1	–	–	–
Relationship status	1	1	2	6
Association with a person who has an attribute listed above	1	–	1	1
Vilified on grounds of disability	1	–	–	–
Total	211	121	169	120

Previous complaint trends continued in 2017–2018 with the provision of goods, services or facilities again being the highest area of complaint. Employment was the second highest area of discrimination complaints. These were followed by complaints of vilification, and complaints in the areas of education and accommodation.

Note that just as a discrimination complaint can be made on more than one ground, a single complaint can also be made about multiple areas of public life.

Table 8: Discrimination complaint allegations by area

Area	2017-2018	2016-2017	2015-2016	2014-2015
Provision of goods, services or facilities	79	36	61	37
Employment	45	28	16	21
Vilification through public act (not relating otherwise to another area of public life)	16	9	–	1
Education	15	9	12	6
Accommodation	14	11	8	7
Access to premises	11	6	11	11
Professional trade or organisation	5	–	2	2
Contract worker	2	–	4	–
Request for information	1	1	3	1
Total	188	100	–	95

Discrimination complaints were primarily lodged against ACT Government departments, agency or statutory authorities (71). 64 complaints were against private enterprise, 12 complaints were against community organisations and 19 complaints were against individuals.

Table 9: Respondents to complaints

Respondents	2017-2018	2016-2017	2015-2016	2014-2015
ACT Government department, agency or statutory authority	71	36	36	22
Private enterprise	64	31	27	38
Community organisation	12	6	12	5
Individual	19	5	8	10
Other	–	–	8	–
Total	166	78	91	75

During the reporting period 125 discrimination complaints were closed, a 62% increase from the 77 closed in 2016-2017. The table below shows the reason for closure for each complaint.

Table 10: Finalised discrimination complaints

Closure reason	Number of complaints
Closed pending referral to the ACAT	1
Have been, or are being, dealt with by a court or tribunal or have been dealt with by the Commission	1
Complainant failed to take reasonable steps to resolve the complaint	2
Given a reasonable explanation and needs no further action	2
Complaint has otherwise been resolved	4
Not a complaint that may be made under this Act	5
Lacks substance	7
Complaint has been considered to the Commission's satisfaction	10
Withdrawn	25
Conciliation is unlikely to succeed	32
Successfully conciliated	36
Total complaints closed	125

Conciliation of discrimination complaints

During the reporting period, the Commission continued to focus on providing a fair, impartial and accessible individual complaint handling process, with a focus on early resolution through conciliation.

The Commission attempted face to face conciliation in 44 discrimination complaints. Of these, 31 were successfully resolved through conciliation and 13 were closed as conciliation was unlikely to succeed.

Table 11: Commission conciliations in 2017–2018

	2017-2018	2016–2017	2015-2016	2014-2015
Agreement reached	31	21	23	17
Agreement not reached	13	8	6	12
Total	44	29	29	29

ACT Civil and Administrative Tribunal referrals

In the discrimination jurisdiction, the Commissioner's role is to consider and if appropriate, conciliate complaints. If a complaint is not resolved at conciliation, the complainant can ask the Commission to refer the matter to the ACT Civil and Administrative Tribunal (ACAT) for a binding decision about whether or not discrimination occurred. The Commission referred 17 complaints to ACAT in 2017-2018, an increase from 11 the previous reporting period.

There were four reported decisions in the discrimination jurisdiction in the ACAT this financial year.

MACCA v AUSTRALIAN CAPITAL TERRITORY REPRESENTED BY EMERGENCY SERVICES AGENCY (Discrimination) [2017] ACAT 101: 4 December 2017

In this case, the applicant alleged that the recruitment target for women adopted by ACT Fire and Rescue in its 2016 recruitment campaign constituted unlawful discrimination on the basis that it treats male applicants unfavourably on the basis of their sex. The Tribunal considered that it was not its role to determine whether the target and the 2016 Campaign were 'good policy, effective policy, or even whether there are negative consequences that outweigh the positive'. Rather, the role of the Tribunal was to consider whether they were 'special measures' under section 27 of the Discrimination Act. The Tribunal was satisfied that ACT Fire and Rescue reasonably believed that the target, and its implementation through the 2016 Campaign, would achieve its goal of enhancing equal opportunity for women. The Tribunal decided that, whatever the merits of the processes or their unfavourable effect on the applicant, they were 'special measures' that met the requirements of section 27 of the Discrimination Act and were therefore not unlawful. The Tribunal ordered that the application be dismissed.

BOTTRILL v SUNOL & ANOR (Discrimination) [2017] ACAT 81 (9 October 2017); and BOTTRILL v SUNOL [2018] (Discrimination) ACAT 21 (13 March 2018)

The applicant, an ACT resident, complained that he was discriminated against by the respondent, a resident of NSW, because of his religious conviction. The complaint was that the respondent operated a number of blog pages, on which were published publicly viewable materials which vilified the applicant on the ground of his religious conviction, being his membership of the Ordo Templi Orientis (OTO). In the first decision, ACAT considered whether it had geographical jurisdiction to hear the matter. The Discrimination Commissioner provided submissions on the issue of jurisdiction and the relevance of the HR Act to the proper construction of section 67A of the Discrimination Act. Having concluded that it did have jurisdiction to hear the matter, ACAT went on to find that the respondent had vilified the applicant on the basis of his religious conviction, by allowing derogatory comments written by a third person to be published on his online blog. Orders were made requiring the respondent to remove the comments (and any similar comments) from any website or social media he controls and to refrain from making or publishing comments of this nature in the future.

MEWETT v UNIVERSITY OF CANBERRA (Discrimination) [2018] ACAT 61: 4 June 2018

In this case, the applicant alleged unlawful discrimination against him by the respondent on the grounds of disability and his caring responsibilities in the area of education. Among other things, the applicant claimed that the respondent had imposed conditions on him in 2017 which prevented him from completing a unit of study which he had commenced in 2013 but subsequently withdrawn from in 2014. The respondent sought to have Mr Mewett's application struck out as being frivolous and vexatious, and lacking in substance. The Tribunal was satisfied that the respondent had discharged the onus on it to establish that the applicant had no arguable case. The Tribunal found that the application was frivolous and vexatious, and ordered that it be dismissed.

Discrimination case studies

As previously noted, the conciliation process provided for by the legislation is confidential. Case studies assist the community to understand the types of issues that arise in complaints brought to the Commission and how those matters may be resolved. Complaints are generally dealt with on the basis there has been no admission of liability. The Commission cannot determine a complaint and we are impartial in our handling of complaints. Case examples below have been de-identified to ensure the privacy and confidentiality of the complaint handling process and of the parties.



Assisting public housing tenant

A woman alleged that she had been discriminated against on the basis of her accommodation status (public housing tenant) by a government regulator for not taking action in response to her noise complaints. The woman argued that the regulator would have taken further action if she was a house owner.

In response to the complaint, the regulator advised that they had several noise complaints from the woman over at least 10 years. The regulator outlined the steps it had taken in response to those concerns and denied that it had discriminated against the woman because she was a public housing tenant.

The complaint resolved through conciliation. The regulator agreed to take specific actions with regard to the source of the noise and to keep the woman informed of their actions and outcomes.



Access for people who have an assistance animal

A woman alleged the manager at her local supermarket attempted to have her removed from the store because she and her daughters were shopping with one of her children's certified assistance dog.

In response to the complaint, the supermarket acknowledged the concerns raised by the woman and expressed its regret in respect to her experience. The supermarket agreed to provide targeted training to the staff of that store on their obligations with respect to assistance animals. The supermarket also agreed to make a \$2000 donation to an assistance animal training charity to resolve the complaint.



Access to taxi services

A man lodged a disability discrimination complaint against the owner and driver of a taxi company. He alleged they refused him a service because he has a guide dog, and the driver also refused to provide him with the taxi number which would have been clearly visible to a sighted person.

In response to the complaint, the driver and owner provided written responses and advised that the driver was new and had not had an assistance animal in his taxi before. They advised that they now understand their obligations and provided written apologies to the complainant. The complaint was resolved on that basis.



Access to flexible work arrangements

A woman employed as a nurse complained that on her return from maternity leave she was discriminated against by being denied access to flexible work arrangements in the form of part-time work. The woman was seeking to work part-time to care for her child and noted that she had been allowed to work part-time when previously returning from maternity leave.

The complaint was resolved on the basis of a payment of \$1,800 financial compensation.

The employment relationship ended as the woman found alternative employment where she was able to work part-time.



Sexual harassment in employment

A woman lodged a complaint that she was subject to sex and race discrimination from her employer. She alleged that on separate occasions she was subject to sexual harassment by her employer, including unwanted sexual advances.

The woman also alleged racial vilification due to the extent and public nature of the comments that were alleged to have been made to her. The woman said she experienced this throughout her period of employment but it got significantly worse after she rejected the advances of her employer.

The matter resolved through conciliation with a payment of financial compensation of \$40,000, a statement of service and training for all staff.



Discrimination in employment

A woman complained that she was discriminated against on the grounds of disability, race and parental status in employment. The woman had made a successful claim for workers compensation and had resigned from her employment. She felt that management made fun of her understanding of English and that the difficulties had started when she had taken time off due to a health issue.

The complaint was resolved at conciliation with the employer agreeing to pay the woman \$3000 as an act of grace, providing a statement of service to the woman, and an acknowledgement that the relationship between the woman and her employer broke down as a result of a change of management, as well as a recognition that the woman experienced significant distress in the workplace.



Travel insurance and mental illness

A woman claimed disability discrimination against a travel insurance company and her bank, through which she obtained the travel insurance. She alleged the company denied her insurance claim as she cancelled her trip due to anxiety and depression. She also alleged the company did not acknowledge her hearing impairment when communicating with her.

The complaint resolved through conciliation on the basis that the respondent agreed to pay the complainant's travel claim. The respondent also apologised for attempting to contact the complainant via phone and it advised that it was in the process of removing the blanket exclusion for mental illness in its policies and agreed to email the complainant once these changes were finalised.



Contract position finalised due to mental illness

A man complained that he was discriminated against in his employment on the grounds of having disclosed a mental health issue, being on a temporary work visa and having been recruited from overseas. The man alleged he was treated unfavourably by not having his contract extended despite originally having been offered a permanent position which he was unable to take up due to his visa status. The man also alleged that he was not given reasonable adjustments for his mental health issue after he disclosed this in the workplace despite providing medical evidence to support his requests.

The matter was resolved with a payment of \$3000 financial compensation and an agreement to reimburse him for advice he had sought and a contribution to the cost of airfares if he decided to travel back to his country of origin before his visa expired.



Race discrimination and employment

The complainant said her employment contract was terminated because of an allegation that she entered false information into her timesheet. She alleged that she was discriminated against on the ground of race in this process.

The matter was resolved through conciliation with the respondent company agreeing to pay the complainant \$3000 in lost wages, update its forms and induction materials to make its procedures clearer to employees and provide cultural awareness training to all of its ACT supervisors.

Disability and community services

The Disability and Community Services Commissioner has responsibility for handling complaints about services for older people, disability services and services for children and young people in the ACT.

The Commission's focus in complaint handling is on supporting parties to resolve complaints informally where possible by facilitating communication between the parties, or with active assistance by providing alternative dispute resolution. The Commissioner also promotes improvements in the provision of these services, including raising awareness of the rights of service users, and the responsibilities of service providers.

Raising awareness of the community's rights helps build their capacity for self-advocacy and awareness of the Commission's complaint handling processes as an avenue for addressing and resolving their concerns.

In 2017-2018 the Commissioner continued a proactive community engagement program to raise the Commission's profile as a complaint handling body in these specific areas of service delivery, and to inform people of the Commissioner's role.

Ms Catalina Devandas Aguilar, the UN Special Rapporteur on the Rights of Persons with Disabilities, visited Australia to coincide with the celebrations of the 25th anniversary of the commencement of the *Disability Discrimination Act 1992* (Cth).

The Commission hosted Ms Catalina Devandas Aguilar in Canberra and invited members of the disability advocacy community to hear from Ms Aguilar about her work. The audience had the opportunity to ask Ms Aguilar questions about her experience internationally, and also hear her response to local issues affecting the Canberra community.

Disability services complaints

Complaints and enquiries received about disability services rose in 2017-2018 compared to the previous reporting period. The Commission received 85 enquiries, an increase from 52 in 2016-2017. The Commission received 26 new complaints, an increase from 18.

19 complaints were about community sector providers and 7 about government providers.

The principal issues raised in the complaints were about case management, brokerage of services and home help. Other issues included transport, and accommodation support.

The Commission closed 26 complaints relating to disability services. The table below shows the reason for closure for each complaint.

Table 12: Complaints relating to disability services

Closure reason	Number of Complaints
Withdrawn	3
Conciliation is unlikely to succeed	5
Successfully conciliated	1
Given a reasonable explanation and needs no further action	2
Complaint has been considered to the Commission's satisfaction	6
Referral to appropriate statutory office-holder	1
Complaint has otherwise been resolved	8
Total complaints closed	26



Access to disability services

A mother made a complaint on behalf of her son against a disability service provider. She alleged the provider assured her they would have a therapist available for her son, so she changed her son's NDIS plan to switch providers. She alleged she had waited 6 months for a therapist, and was then told there may be a further 12 month wait. She also alleged she had been billed twice for services her son did not receive.

The disability service provider submitted a detailed response to the complaint and acknowledged the mistakes it had made. The complainant did not request any further action from the service provider or the Commission.



Maintenance of housing

A man escalated his concerns about the housing unit he was living in. He reported that there were a range of maintenance issues, including a reported infestation in his carpets causing medical conditions, and the placement of communal bins which made access difficult for him and he experienced injury as a result. The Commission received information from the service provider, and facilitated a conciliation conference to try to resolve the complaint. The parties reached an agreement which included the service provider's undertaking to conduct a property audit and clarify communication pathways for escalating complaints with them.



Access to home care services

A woman raised concerns about her home care service provider. She reported that her care support worker, who helped with cleaning in her home over many years, suddenly stopped coming to her home for cleaning. She also raised concerns about communication and the standard of cleaning she was receiving. The Commission contacted both the complainant and the service provider, and facilitated an informal early resolution process. The parties reached agreement on many of the concerns raised by the complainant and the provider clarified the scope of services. The parties agreed to continue communicating directly about any outstanding and future concerns. The Commission finalised the matter as it was being adequately dealt with.



Access to accommodation

A guardian complained on behalf of her uncle about an accommodation service for people with a disability. She stated her uncle required 24 hour care, and alleged he had been left unattended for periods of time which endangered his health. She reported there had been recent incidents where her uncle had self-harmed by drinking too much water due to insufficient supervision. She stated that the provider was expecting her uncle to vacate their premises within two weeks despite her uncle not having anywhere else to go.

Upon receiving the complaint, the provider agreed to allow the client to stay at their premises until the client's new accommodation was ready. The guardian confirmed this was the main objective for making the complaint and she did not wish to pursue the other allegations.

National Disability Insurance Scheme

The Commissioner submitted a joint submission with the Public Advocate and Children and Young People Commissioner in March 2018 to the ACT Legislative Assembly's Inquiry into the Implementation, Performance and Governance of the NDIS in the ACT.

The submission noted that the Commission has received numerous enquiries and complaints about the National Disability Insurance Agency (NDIA) from NDIS participants, their carers, their families, and their advocates. Some of the complaints related to not having sufficient funds approved, including a reduction of the amount previously approved, to cover all the supports needed by participants. However, after requesting responses from the NDIA in relation to the concerns raised in the complaints received, the NDIA consistently refused to engage with the Commission in the exercise of its lawful complaint investigation functions in relation to disability services provided in the ACT. Despite the *Quality Assurance and Safeguards Working Arrangements for ACT NDIS Trial as agreed between the ACT Government and the NDIA* expressly stating that the ACT Disability and Community Services Commissioner will continue to have jurisdiction to deal with complaints about disability services, including complaints regarding NDIA functions that fall within the jurisdiction of the Commissioner, this has not been the experience of the Commission.

The Commission is concerned that ACT NDIS participants have had their rights of redress reduced as the pathways for external redress for complaints about the NDIA are through legal processes such as the Administrative Appeals Tribunal or through Commonwealth agencies with limited scope. The current approach is leaving NDIS participants in the ACT with limited effective remedies for their individual concerns about the NDIA, further disadvantaging people with a disability.

Case examples of complaints received by the Commission

- **Funding:** A woman complained about the management of her NDIS plan, including providing incorrect advice resulting in her running out of core funds, not paying invoices from service providers, and a debt of \$6000-8000 due to poor plan management. A review of NDIS funding and outstanding bills resulted in a new plan she was satisfied with and a payment plan for outstanding amounts. She also noted improvement in communication from the NDIA.
- **Funding:** A man complained that he had sought a review of his NDIS plan to be brought forward three months as his needs had changed and he did not have sufficient funds remaining in his plan which was meant to cover the next three months.
- **Inadequate transport allowance:** A father complained about a disability service provider who was providing his son with occupational therapy and speech therapy under his NDIS plan. Due to the service provider moving locations, his son's transport allowance has limited the number of sessions he is able to access from fortnightly to 8 times per year as the transport allowance has not been adjusted to accommodate the additional distance.
- **Funding:** A mother complained on her son's behalf about a disability service who are providing NDIS service coordination for her son. She said a recent review of his plan did not follow guidelines, including planning meetings, assessing her son's needs, and obtaining required paperwork. She stated this resulted in a significant and unsustainable reduction in his NDIS funding.

Complaints about services for older people

The Commissioner's jurisdiction includes considering complaints about services for older people. Complaints may be about:

- organisations providing specialised services for older people and their carers, such as retirement villages, personal and home-care services and respite care
- care support workers, such as people providing personal and home care assistance, home maintenance or transport
- recreation or community support organisations providing services, such as food services, advocacy or employment.

In 2017–2018, the Commission received 11 enquiries about services for older people and received two complaints. It should be noted that in some cases complaints from older people have also been dealt with as age discrimination complaints or as health services complaints.

The Commission closed two older people complaints in the reporting period. One was closed as successfully conciliated, and the other was closed after the respondent provided a reasonable explanation.

During 2017-2018 the Commissioner continued work on the Retirement Villages Review Advisory Group and was informally involved in a number of on-site consultations with residents about concerns with village operators.



Aged care services

A staff member at a nursing home contacted the Commission to anonymously raise concerns about reductions in staffing levels overnight, and stated this was adversely affecting residents who are at risk of falls. The staff member reported an increase in resident falls and delays in staff responsiveness to resident health concerns.

Based on the information received, the Commissioner commenced a Commission-initiated consideration into the concerns, including:

- support for health professionals on staff
- adequacy of clinical supervision
- whether residents were receiving an adequate level of care
- whether observations were being properly taken and recorded.

The nursing home provided evidence that appropriate action was taken in response to each incident involving residents experiencing falls overnight, and that residents who are at risk of falls received ongoing falls assessment and risk and activity assessment review.

The information provided also indicated that appropriate steps were taken to support health professionals' ongoing development and practice, and that the facility had a structured staff training and induction process.

The Commissioner found the responses were satisfactory and no further action was required.



In home service provision

A man lodged a complaint about his former in-home aged care service provider. He alleged that the support worker had taken advantage of him, and as a result he suffered financial loss. The Commission sought a response from the service provider, along with copies of any relevant supporting documentation. Following investigation of the complaint, the service provider took relevant action in relation to the support worker's employment. The Commission was satisfied with the explanations provided and the matter required no further action from the Commission.

Complaints about services for children and young people

The Discrimination, Health Services, Disability and Community Services Commissioner deals with complaints about services for children and young people. Complaints may involve any service provided to children and young people, including education, sport, child protection and out of home care, disability services such as respite or transport services, child-specific health services such as mental health services, and youth justice.

During the reporting period, the Commission received 21 complaints about services provided to a child, young person or their carer. This is an increase from the 17 complaints received the previous year. The Commission also received 65 enquiries relating to services for children and young people, a similar number to the previous year.

The principle issues raised in the complaints were:

- Child protection and custody arrangements, including communication, safety concerns and visitation
- Youth justice services
- Access to preferred schools
- Communication from the service provider with parents, particularly in relation to adverse events.

Table 13: Complaint investigations – Service provider

Service Provider	2015-2016	2016-2017	2017-2018
Child and Youth Protection Services	4	8	9
Youth Justice	4	2	4
Education providers	2	4	6
Other government agencies	-	2	1
Community sector agencies	-	-	1
Private sector agencies	-	1	-
Total	10	17	21

The Commission closed 19 complaints relating to services for children and young people. The table below shows the reason for closure for each complaint.

Table 14: Complaints relating to services for children and young people

Closure Reason	Number of Complaints
Withdrawn	2
Conciliation is unlikely to succeed	3
Successfully conciliated	1
Given a reasonable explanation and needs no further action	7
Complaint has been, or is being, dealt with by a court or tribunal or has been dealt with by the Commission	1
Complaint has been considered to the Commission's satisfaction	4
Complaint has otherwise been resolved	1
Total complaints closed	19



Financial support for transition from care to adulthood

A kinship carer complained about the Extended Continuum of Care Subsidy, which forms part of the 'A Step Up for Kids' policy and extends payment to carers where a young person who has reached 18 continues to live with the carer. The payment assists young people to transition into adulthood.

The complainant expressed concerns about the process to apply for the subsidy, the outcome of her application and the lack of communication and information available to carer applicants. She said she was not provided with adequate information about the eligibility criteria, there was no application form, and when her application was denied, she was not provided with clear reasons for the decision. She maintained these concerns after she sought review of the decision and the outcome was unchanged. She sought clarity around eligibility criteria, a review of her application against the criteria as communicated, and improvements to communication practices in general from with the organisation with carers.

The organisation acknowledged that communication and the provision of information with carer applicants, including the complainant, required improvement. It committed to developing further materials, guidelines and policy documentation to improve the clarity of information available.

The organisation declined the offer of convening a conciliation conference to try to resolve the complainant's concerns. Given this, the Commission considered conciliation was unlikely to be successful. The complaint was finalised on that basis.



Access to services for children in foster care

A complainant expressed concerns that a provider of services for children and young people in out-of-home care had refused to provide psychiatric services for a foster child.

The Commission engaged with the provider, who advised that a professional therapeutic consultation had taken place, and the provider had reached the view that a community paediatrician would be able to provide services to the child, in lieu of a private psychiatrist. The provider acknowledged that communication with the complainant in relation to this consultation was poor and offered an apology. The provider also agreed to fund therapeutic and psychological support for the foster child, the complainant and their family.



Response to schoolyard bullying

A complainant alleged her son was being bullied by students at his school, and that his school had failed to impose consequences on the students when the bullying continued. The complainant alleged her son was suffering from psychological issues as a result of a physical attack by one of the students, and sought the Commission's assistance to expedite a transfer of her son to another school.

The Commission facilitated a direct resolution to allow the student to transfer school, and the Commission investigated the woman's concerns about the school's management strategies relating to bullying. While the education provider proposed outcomes for resolution, the complainant elected not to proceed to conciliation.



Access to preferred high school

A man lodged a complaint on behalf of his daughter against an education provider, reporting his daughter was not able to enrol in the high school of her choice. He also expressed concerns that he was not able to access an appeals process after the school changed its teaching policies in a manner which he alleged would disadvantage his daughter's education.

The complaint resolved through conciliation with an agreement that the education provider would:

- consider implementing a secondary enrolment appeals process for students/parents where there has been a change in circumstances for the student or school
- inform the complainant once the new enrolment policy is finalised
- encourage its school principals to: provide clear and timely communication to prospective students and their families about their school's approach in delivering curriculum; ensure, wherever possible, that information provided to prospective students and their families during information sessions remains accurate for the following school year; and communicate any planned or considered changes to the school's teaching approach to prospective students and their families as early as possible.

Victims of Crime Commissioner

Strategic Priority 1: make human rights relevant to everyone

Victim Support ACT

Victim services scheme

The Victims of Crime Commissioner and Victim Support ACT provided 1634 victims of crime with assistance in 2017-2018. This figure includes:

- case management of new clients, existing clients with new episodes and ongoing clients
- one-off assistance including advice, information or referral to another service.

A breakdown of the types of assistance provided is displayed in table 15. These statistics indicate a significant increase in provision of case management services (1040 clients) in comparison to the last reporting period (764 clients).

The percentage of client referrals that were actioned in less than five working days was 92%, slightly below the target of 95% but an improvement on 89% in 2016-2017.

Table 15: Victims of crime provided with assistance

Types of assistance	2015-2016	2016-2017	2017-2018
New clients registered for case management	374	327	404
Existing registered clients with new episodes of victimisation	51	24	6
Existing registered clients - ongoing service	508	413	630
Clients provided with advice information or referral	239	479	429
Referral received – client declined service	160	151	140
Referral received - out of scope/inappropriate	45	19	25
Total Clients assisted	1377	1413	1634
Referral received - unable to be contacted	138	193	207

Financial assistance scheme

The financial assistance scheme team received 392 new applications, compared to 108 applications in the previous reporting period. The team also undertook ongoing case management of existing applications and provided a range of information and education services. The work of the team is reported in more detail below.

Volunteer program

The volunteer program supported 138 clients to either attend court or prepare an application for financial assistance. These figures are explored in more detail below.

Working with the Aboriginal and Torres Strait Islander community

In 2017, Victim Support ACT was successful in securing temporary resources to employ an Aboriginal and Torres Strait Islander Victim Liaison Officer (AVLO). The need for this role was initially identified by Whetnall & Payne in their 2011 consultation report entitled *It's About Trust – Supporting Aboriginal & Torres Strait Islander victims of crime in the ACT*. Ms Tanya Keed commenced full-time in the role in September 2017.

The AVLO has undertaken extensive awareness raising, community engagement and relationship building with the ACT Aboriginal and Torres Strait Islander community to raise the profile of Victim Support ACT. In addition, the AVLO has provided services to Aboriginal and Torres Strait Islander people affected by crime including providing information, making referrals, undertaking case management, assisting with financial assistance scheme applications, facilitating the making of complaints to the Human Rights Commission and group work in the form of yarning circles.

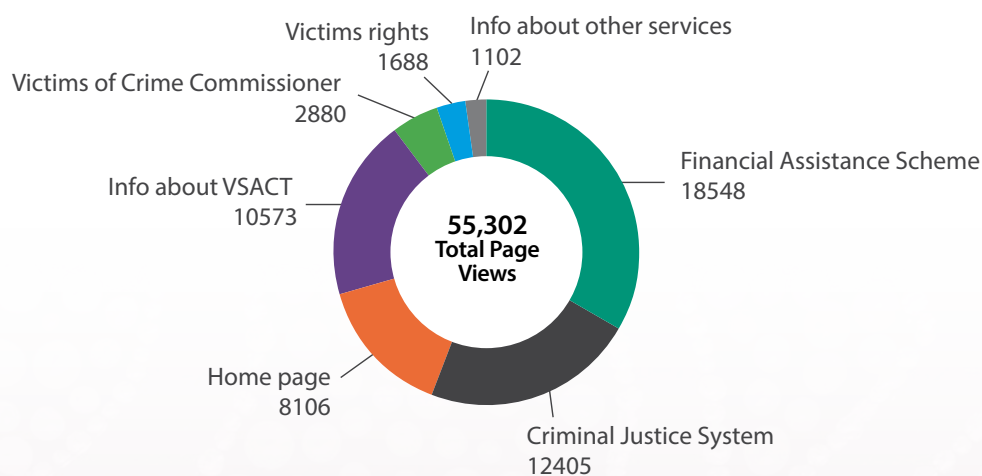
The AVLO has assisted a working group to implement the remaining recommendations from *It's About Trust*. One important recommendation relates to cultural awareness training and the development of an information manual. During 2017-2018, a majority of Victim Support ACT staff had attended external cultural awareness training and the AVLO provided practical in-house training on working with Aboriginal and Torres Strait Islander people affected by crime. An important resource entitled *Practice Considerations when Working with Aboriginal and Torres Strait Islander People Affected by Crime* was also prepared and distributed to staff.

The Victims of Crime Commissioner will seek to identify resources to continue the AVLO role with a view to making it a permanent position.

Victim Support ACT website

The Victim Support ACT website provides important information to victims of crime in the community about their rights and how to access available services. Figure 1 shows a total of 55,302 main page views of Victim Support ACT's website in 2017-2018. The sections of the website relating to the financial assistance scheme, the criminal justice system and Victim Support ACT services were the most visited.

Figure 2: Victim Support ACT website views 2017-2018



Strategic Priority 2: lead systemic change to address vulnerability

Human rights and policy submissions

In 2016, the ACT Government committed to developing a Charter of Rights for Victims of Crime. In December 2017, the outgoing Victims of Crime Commissioner published a consultation report to guide government and assist the community to understand the needs of victims of crime in the ACT. The report presented information from consultations with victims of crime and representatives of diverse stakeholder groups. It also identified issues that the Victims of Crime Commissioner believed should be explored by the ACT Government in future community consultations. In June 2018, the ACT Government released a Charter options paper seeking feedback on the establishment of a Charter of Rights for Victims of Crime. The options paper addresses many of the issues flagged in the Victims of Crime Commissioner's paper. The Human Rights Commission looks forward to considering the options paper and working with government towards development of a Charter of Rights over the next reporting period.

Addressing family and domestic violence

The Victims of Crime Commissioner plays an important role in the ACT Government's work to address family and domestic violence. The Victims of Crime Commissioner chairs the Family Violence Intervention Program Coordinating Committee, is the Domestic Violence Project Coordinator and continues to participate in work to design the ACT's new Family Safety Hub. The Victims of Crime Commissioner is also a member of the ACT Domestic Violence Prevention Council.

Domestic Violence Prevention Council extraordinary meeting

On 4 April 2018, the Domestic Violence Prevention Council convened its second extraordinary meeting to discuss the needs of children and young people affected by family and domestic violence. The meeting brought together a wide range of experts from community and government to identify key issues for children and young people affected by domestic and family violence and inform practical measures that the ACT could take to improve responses. As a member of the Council, the Victims of Crime Commissioner advocated for initiatives including the need for specialist therapeutic supports for children and young people, the extension of 'special measures' and the use of intermediaries to better support young witnesses and complainants when they have to give evidence about domestic and family violence. The Council's recommendations will be forwarded to the Minister for the Prevention of Domestic and Family Violence, for consideration in service planning and forthcoming budget deliberations.

Family safety hub

The Office of the Coordinator-General for Family Safety was established in 2016–2017 in response to findings from three major 2015–2016 reports: the *Glanfield Inquiry*; the *Review of Domestic and Family Violence Deaths in the ACT*; and *Domestic Violence Gap Analysis*. It was the first time the ACT Government had committed extensive resources to developing an integrated approach to family and domestic violence outside the criminal justice system. In the reporting period, John Hinchey and Heidi Yates have each represented the Human Rights Commission on the core design team for the ACT Family Safety Hub. The Hub seeks to develop better responses to domestic and family violence by bringing experts together to help find and test new solutions. The best of those solutions will be piloted, with successful pilots used to drive change in the broader justice and service systems. At present, the Hub's first design challenge is focused on prevention and early intervention for pregnant women and new parents. This focus recognises that women can be at greater risk of experiencing violence from their partners during pregnancy and post-partum, especially when they are separated. The Victims of Crime Commissioner has advocated for future hub design 'challenges' to focus on issues including culturally-appropriate safety and support for Aboriginal and Torres Strait Islander families, people from culturally and linguistically diverse backgrounds and victims with a disability.

Family Violence Intervention Program Coordinating Committee

Victim Support ACT provided secretariat support for the Family Violence Intervention Program Coordinating Committee throughout 2017-2018. Former Victims of Crime Commissioner John Hinchey chaired the committee from 2011 until December 2017. Jo Wood, Coordinator General for Family Safety, joined the committee in December 2017 and provided welcome guidance and leadership as interim Chairperson from January to July 2018. The new Victims of Crime Commissioner will chair the committee from July 2018.

Commencing in 1998, the Family Violence Intervention Program was developed to respond to family violence incidents that come to the attention of police and proceed to prosecution. It integrates the activities of the police, prosecution, courts and corrections, and coordinates externally with key support agencies. Partner agencies are:

- ACT Policing
- Office of the Director of Public Prosecutions
- ACT Law Courts and Tribunal
- ACT Corrective Services
- Legislation, Policy and Programs, Justice and Community Safety Directorate
- Health Directorate
- Child and Youth Protection Services, Community Services Directorate
- Coordinator General for Family Safety
- Victims of Crime Commissioner (Chairperson)
- Domestic Violence Crisis Service
- Canberra Rape Crisis Centre
- Legal Aid ACT
- JSD
- Victim Support ACT (Secretariat).

During 2017-2018, the work of the Family Violence Intervention Program Coordinating Committee included:

- Advocating for law reform to better protect the privacy of victims who prepare victim impact statements in advance of a guilty finding, or submit applications for financial assistance.
- Advocating for improvements to available support programs for people who use family violence.
- Providing a submission regarding the appropriateness of family violence cases being considered by the future ACT Drug and Alcohol Court.
- Exploring IT opportunities for improved information-sharing to assist people experiencing family violence.
- Initiating sub-committees to progress work in relation to strangulation prevention and responses to Coroner Morrison's Report into the Death of Tara Costigan.

Victims of Crime Commissioner – Advocacy and concerns

The Victims of Crime Commissioner has an obligation under the *Victims of Crime Act 1994* to monitor and promote compliance with the governing principles. These principles, detailed in section 4 of the Act, establish how victims should be treated in the administration of justice. The Victims of Crime Commissioner must also try to resolve any concern raised by a victim about non-compliance with the governing principles by an agency involved in the administration of justice. The Victims of Crime Commissioner has broad information-gathering powers which require criminal justice agencies to provide her with information that is 'reasonably required' by the Victims of Crime Commissioner to resolve a concern. In exercising these responsibilities, the Victims of Crime Commissioner currently:

- Assists people to assess and clarify problems in the delivery of services by criminal justice agencies and assist in making their concerns known to criminal justice agencies.
- Facilitates communication, formally or informally, between victims and criminal justice agencies towards resolution of a victim's concerns.
- Uses information obtained and lessons learned to recommend improvements to criminal justice processes or procedures.

During 2017-2018, the Victims of Crime Commissioner sought to resolve a number of victim concerns about justice agencies not complying with the governing principles. The Victims of Crime Commissioner assisted with concerns about matters including:

- the service of family violence orders where respondents are unable to be located for a lengthy period of time
- offenders in custody and their family members contacting victims to harass and threaten them
- improving processes for recognition and enforcement of Family Violence Orders where a respondent has been incarcerated
- liaison with ACT Policing in relation to updates and responses in family violence matters
- liaison with the Director of Public Prosecutions about information flow to victims
- advocacy relating to victims who were not given the opportunity to have their Victim Impact Statements provided to the court for sentencing, or had their statement edited without their knowledge or agreement.

The Victims of Crime Commissioner also advocated for individuals on other relevant issues including:

- making enquiries and advocating for individuals about the enforcement of reparation orders
- the treatment of victims when being cross-examined in court
- writing to the Sentence Administration Board to represent the interests of a client with regard to a particular offender's parole applications
- assisting a client's mother to prepare a letter to the Attorney General about court delays, the treatment of victims in the court process and appeal options for the Director of Public Prosecutions
- meeting with the Minister for Police and the Chief Police Officer to discuss the investigation of cold cases on behalf of a client.

The Victim Services team also provided individual advocacy to help victims access their rights as victims of crime and other relevant services.

Victim Support ACT

Victim Services Scheme

Victim Support ACT administers the Victims Services Scheme, established under Part 4 of the *Victims of Crime Act 1994*. The victim services team:

- assesses eligibility and suitability for a range of support services
- provides therapeutic interventions directly and through funded referrals to private service providers
- works with clients to restore a sense of health and well-being in their recovery from the impact of crime
- assists clients to navigate the criminal justice system.

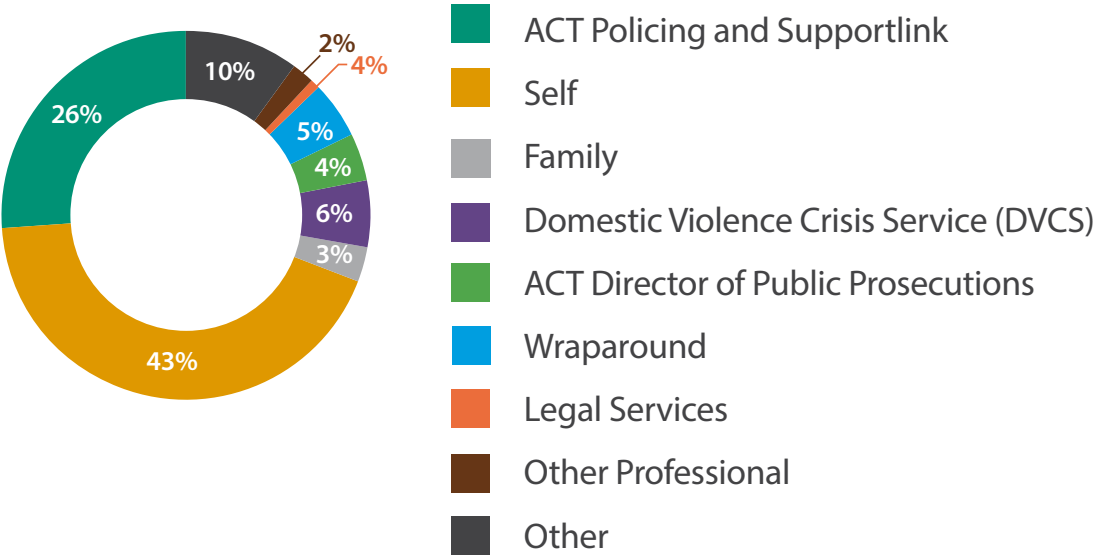
Victim Support ACT recognises that the effects of crime and the type of support needed vary widely from victim to victim. It works closely with a range of community and government agencies to ensure victims have a choice of support providers and can access help in ways that work for them. Many people who experience violent crime do not seek help immediately. No time-limits apply to help available through Victim Support ACT and in many cases, people only seek assistance years after a crime has occurred, particularly if they have been victims of childhood sexual abuse.

The following statistics provide an insight into key characteristics of the clients whom Victim Support ACT has assisted in the reporting period.

Referral sources

In 2017-2018, self-referrals went up by 2% and referrals from ACT Policing and SupportLink went down by 6% compared with 2016-2017. For the first time, data has also been captured in this reporting period to identify the number of referrals from other professionals and legal services including private lawyers. This data provides important information about the medical and legal community's awareness of services provided by Victim Support ACT.

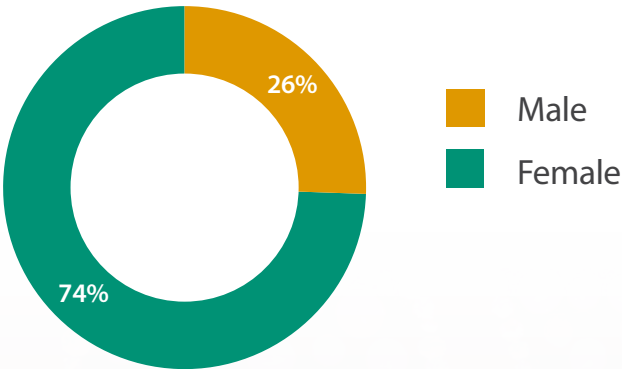
Figure 3: Victim support ACT referral sources in 2017-2018



Gender

The majority of Victim Support ACT’s clients during this financial year have been women (Figure 3). This has been the case throughout the agency’s history, most likely reflecting the fact that women are disproportionately likely to be victims of family and domestic violence and sexual assault, requiring intensive recovery-focused support.

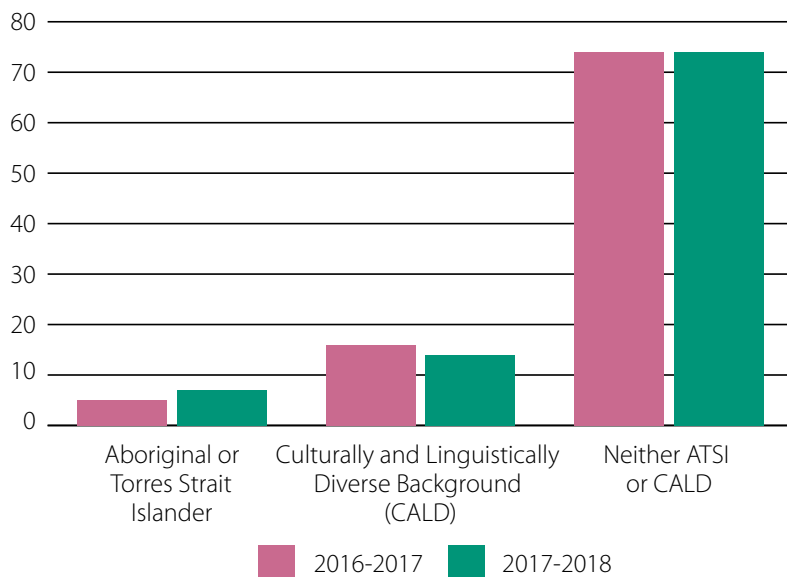
Figure 4: Victim support ACT clients by gender



Cultural diversity

Figure 4 summarises the cultural diversity of clients accessing services in 2017-2018. Most Victim Support ACT clients did not identify as either Aboriginal or Torres Strait Islander or culturally and linguistically diverse. Evidence suggests that Aboriginal and Torres Strait Islander people are more likely to experience crime. Victim Support ACT has an ongoing commitment in the *Aboriginal and Torres Strait Islander Justice Partnership Agreement 2015-18* and the *JACS Reconciliation Action Plan 2016-19* to provide more services to Aboriginal and Torres Strait Islander victims of crime. In recognition of this, and in an effort to improve accessibility of our service to these communities, Victim Support ACT employed an Aboriginal and Torres Strait Islander Victim Liaison Officer in 2017. This which has improved connections with the community, increased awareness of the services offered and increased the uptake of Victim Support ACT services. Victim Support ACT experienced an increase in clients identifying as Aboriginal and/or Torres Strait Islander from 5% of all clients in 2016-2017 to 7% of all clients in 2017-2018.

Figure 5: Client diversity 2017-2018



Gender, age and offence type

Family and domestic violence and sexual assault continued to comprise a large proportion of offences against female clients over 18 years of age (Figure 6). In contrast, male clients over the age of 18 were more likely to experience other forms of violence (Figure 7).

Female clients under 18 were more likely to have experienced sexual assault than any other offence. Males under 18 were more likely to be victims of family and domestic violence than any other type of offence.

Figure 6: Breakdown of female victims by age at incident and type of offence 2017-2018

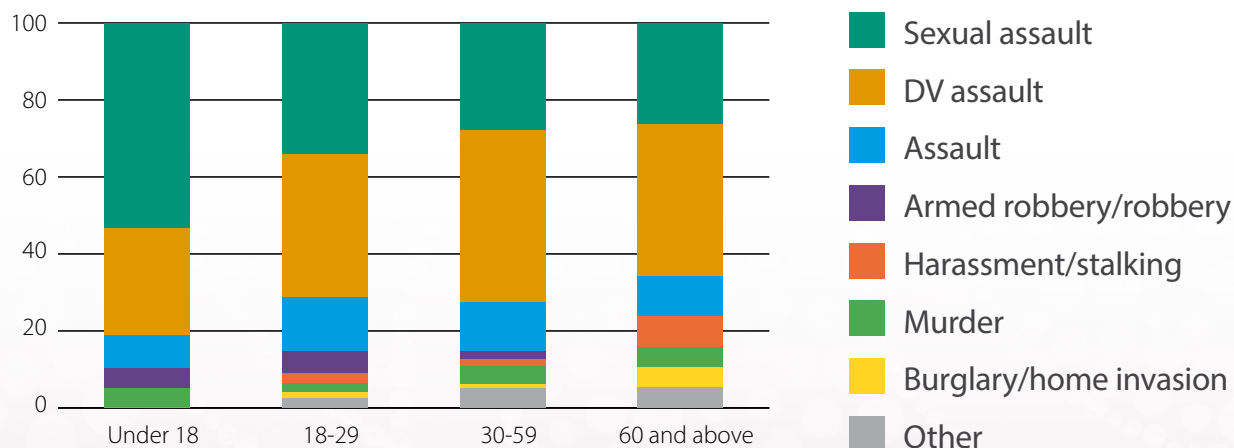
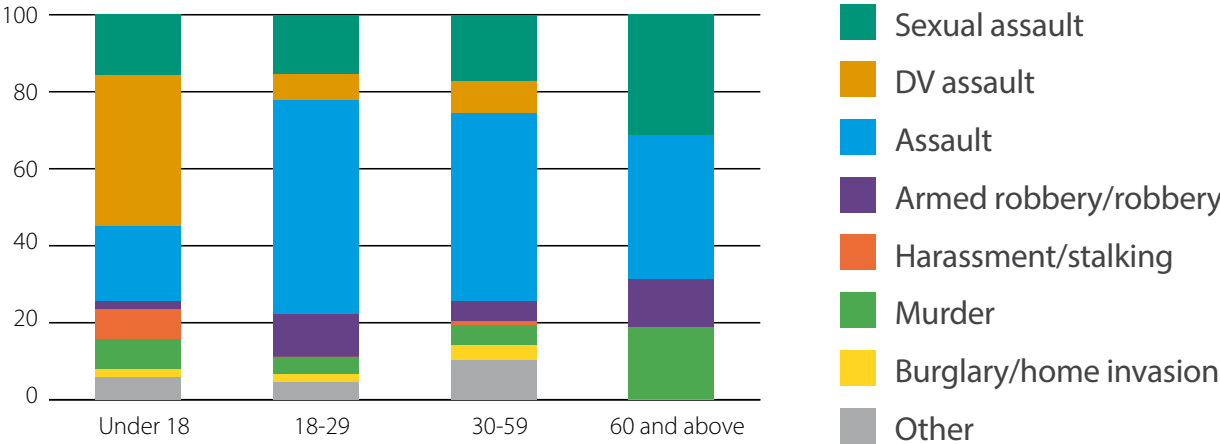


Figure 7: Breakdown of male victims by age at incident and type of offence 2017-2018



Relationship to offender

It is significant to note that a large proportion of Victim Support ACT’s clients know the person who committed the violence against them (Figure 8). Half of the people who used violence were family members, partners or ex-partners, up from 44% in the previous reporting period.

Figure 8: Victim relationship to offender 2017-2018 (percentage of total)

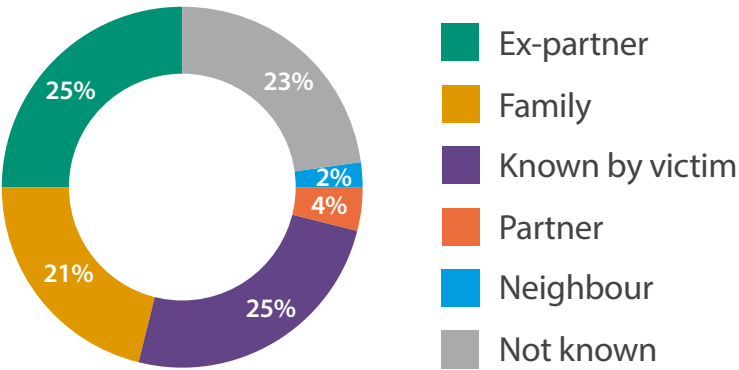
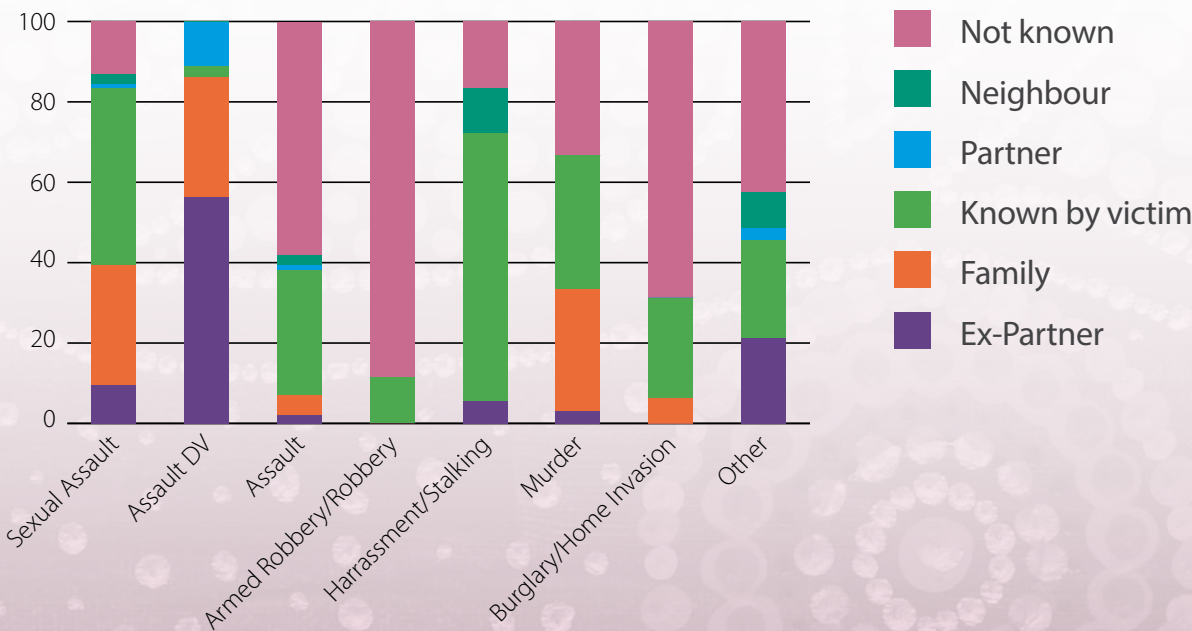


Figure 9 shows that for the offences of harassment/stalking and sexual assault it was rare for the victim not to know the offender.

Figure 9: Relationship to offender according to offence type 2017-2018

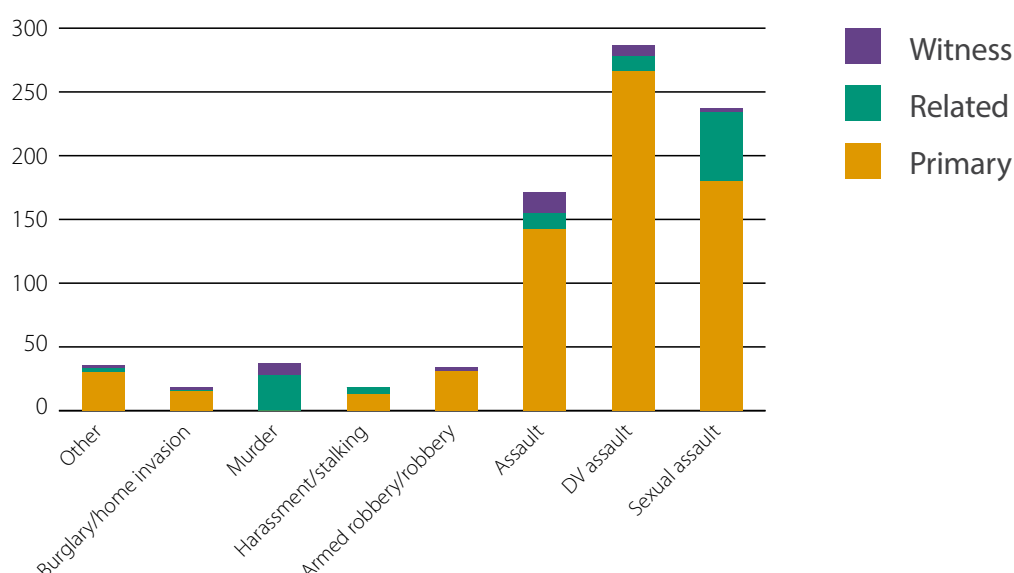


Support for related victims

The overwhelming majority of victims who received support from Victim Support ACT in the reporting period identified as 'primary victims', defined as someone who has experienced harm or injury as a direct result of a violent crime. In 2017-2018, however, Victim Support ACT also provided assistance to related victims and witnesses (Figure 10).

The offence category where Victim Support ACT supported the largest number of related victims was 'sexual assault and related offences' (Figure 10). These clients were primarily parents or carers of child sexual assault victims including historical child sexual assaults. These statistics demonstrate the significant flow on effect of sexual violence beyond individual victims to their families and carers.

Figure 10: Breakdown by type of crime and type of witness 2017-2018



Financial assistance scheme

The Victims of Crime financial assistance scheme, administered under the *Victims of Crime (Financial Assistance) Act 2016* aims to:

- assist victims of crime to recover from acts of violence
- contribute to the safety of victims of crime and the prevention of future acts of violence
- acknowledge the harmful effects of acts of violence
- complement other services provided for victims of crime.

The financial assistance scheme provides financial help to victims of crime and recognises that crime has an enormous physical, financial and emotional toll on victims.

In 2016, the Victims of Crime Commissioner was given responsibility for administering a new financial assistance scheme, introduced to replace the previous court-based scheme which had been broadly criticised for its lack of accessibility, cumbersome eligibility requirements and inability to respond to victim in a timely manner.

Introduction of the new scheme in 2016 aimed to increase scheme accessibility for a wider range of victims and ensure timely responses to applicants. The new scheme commenced operation on 1 July 2016, with the Victims of Crime Commissioner becoming the decision maker for all new applications for financial assistance from 1 July 2017.

During the 2017-2018, 392 applications for financial assistance were received. This equated to an average of 32 new applications each month and represents a 263% increase on the number of applications received during 2016-2017 (108).

The dramatic increase in the number of applications received and financial assistance granted during 2017-2018 is a welcome result for victims in the ACT and highlights increased awareness of the new scheme within the ACT community. Although the increased number of applications presents ongoing challenges to delivery of timely responses to victims of crime, the growing success of the scheme is evident in the additional number of people who are able to access the scheme across the ACT community.

The monitoring of vulnerable groups continued during 2017-2018 with notable increases in applications received from members of the Aboriginal and Torres Strait Islander community (10%), culturally and linguistically diverse people (11%) and people with a disability (3%). Victim Support ACT is committed to continuing to raise awareness of the financial assistance scheme among vulnerable communities in 2018-2019.

Immediate need payments

Immediate need payments are intended to help victims of crime with expenses at the time of the application as prescribed by the *Victims of Crime (Financial Assistance) Regulation 2016*. Applications can be made for the cost of cleaning a homicide scene; personal security e.g. changing locks, security screens; relocation for personal security (e.g. removalists, storage unit); emergency medical costs; and related services that contribute to recovery. During 2017-2018 there were 47 payments made to, or on behalf of, 36 applicant totalling \$54,692.95. This was a pronounced increase from the previous financial year of 15 payments made totalling \$10,449.

Table 16: Financial assistance scheme immediate need payments in 2017-2018

Type of immediate need payment	Number of payments made	Amount
Cleaning the scene of a homicide	0	\$0
Measures for personal security of a victim	12	\$13,444.12
Relocation for personal security of a victim	21	\$28,352.93
Emergency medical costs and related services that would contribute to victim's recovery	14	\$12,895.90

Economic loss payments

Economic loss payments cover economic losses sustained as a result of an act of violence. The financial assistance scheme was designed to complement other victims of crime services and incorporate direct payments to providers and reimbursement to applicants for out-of-pocket expenses. There were 132 economic loss payments totalling \$132,092 made during 2017-2018, a very substantial increase from 47 payments totalling \$23,044.93 the previous financial year.

Table 17: Financial assistance scheme economic loss payments in 2017-2018

Type of economic loss payment	Number of payments made	Amount
Expenses for counselling or other psychological support	10	\$5,079.90
Expenses, other than legal costs, incurred in making the application	13	\$2,886.91
Medical and dental expenses	66	\$59,261.43
Travel expenses	14	\$9,994.77
Justice-related expenses	3	\$71.17
Loss of actual earnings (including loss of earnings incurred by a parent or carer of a primary victim)	18	\$48,773.06
Reasonable expenses incurred by the parent or carer of a primary victim	1	\$300
Other expenses in exceptional circumstances	4	\$5,269.94
Loss of or damage to personal items	3	\$474.54

Recognition payments

Recognition payments are lump sums that acknowledge trauma suffered by victims of violent crime. Payment amounts are prescribed by the *Victims of Crime (Financial Assistance) Regulation 2016* and amounts can be increased where one or more circumstances of aggravation exist.

There were 110 recognition payments totalling \$428,250 made during 2017-2018, up markedly from 47 payments totalling \$150,250 in the previous financial year. Of those, 66 payments had 'circumstances of aggravation' applied in recognition of the effects of serious injury, the circumstances of the act of violence or vulnerability of the victim at the time. Twenty payments in this category recognised that two or more circumstances of aggravation applied, with the remaining 46 identifying only one circumstance of aggravation.

Table 18: Financial assistance scheme recognition payments by offence type in 2017-2018

Type of Offence	Number of Payments Made	Amount of Payments Made
Act endangering life	6	\$14,000
Act of indecency without consent	2	\$4,500
Aggravated robbery	6	\$13,500
Assault occasioning actual bodily harm	33	\$80,000
Assault occasioning grievous bodily harm	6	\$62,000
Attempted murder	2	\$41,250
Common assault	30	\$34,500
Intentionally wound	1	\$3,000
Recklessly or intentionally inflict grievous bodily harm	11	\$103,000
Related victims	1	\$10,000
Sexual assault in third degree	1	\$8,000
Sexual intercourse without consent	5	\$44,000
Stalking	4	\$5,000
Threat to kill	2	\$5,500

Recognition payments made under Section 203

Section 203 of the *Victims of Crime (Financial Assistance) Act 2016* provides that a person may apply for financial assistance for an act of violence that would have been subject of the application under the repealed 1983 Act. This means that from 1 July 2017 a person can now apply for an act of violence that occurred before 1 July 2016.

There are two different payments that may be made as a recognition payment for acts of violence that occur before 1 July 2016.

Sexual offences

If the act of violence arises in the course of certain sexual offences pursuant to sections 51 to 62 of the *Crimes Act 1900*, the maximum amount of a recognition payment that may be given is \$50,000. Of the total number of applications received in 2017-2018, 18% related to historical sexual offences i.e. sexual offences before 1 July 2016. In 2017-2018, there were 29 recognition payments made to applicants in this situation, totaling \$1,876,828.82.

Table 19: Financial assistance scheme recognition payments under Section 203 by offence in 2017-2018

Type of Offence	Number of Payments Made	Amount of Payments Made
Acts of indecency without consent	1	\$49,780
Acts of indecency with young people	15	\$749,007.82
Attempt sexual intercourse without consent	1	\$50,000
Incest	3	\$150,000
Sexual assault in the third degree	2	\$100,000
Sexual intercourse without consent	5	\$249,791
Sexual intercourse with young person	2	\$100,000

Extremely serious injury

If the person suffers an injury as a result of the act of violence that was an 'extremely serious injury' (as defined in the Act) the maximum amount of recognition payment that may be given is \$30,000. An 'extremely serious injury' is defined as one that results in a permanent impairment of a bodily function, a permanent loss of a bodily function, a permanent disfigurement, a permanent mental or behavioural disorder or the loss of a foetus.

There were no payments made in 2017-2018 for extremely serious injury under section 203 of the *Victims of Crime (Financial Assistance) Act 2016*.

Funeral expenses

A person is eligible to apply for a funeral expense payment if the person has paid, or is required to pay, the costs of a funeral for a primary victim who has died as a result of a homicide. In 2017-2018, four payments were made totalling \$11,701 for funeral assistance.

Disqualifying circumstances

Under the *Victims of Crime (Financial Assistance) Act 2016* there are 'disqualifying circumstances' in which financial assistance must not be given, so as to ensure the scheme benefits the appropriate victims. Disqualifying circumstances applied to 26 financial assistance scheme applications in 2017-2018; 13 because there was insufficient evidence an offence had occurred, eight due to lack of evidence of injury, two for offences which occurred outside of the ACT and one where the applicant had instigated the altercation that led to injury. There was also one applicant involved in a serious crime and one application made under the repealed Act that were deemed as disqualifying circumstances.

Recovery

The *Victims of Crime (Financial Assistance) Act 2016* expects offenders to contribute to the cost of the financial assistance scheme. However, before acting to recover costs from offenders, the Victims of Crime Commissioner must take into account certain factors to ensure a victim or any other person's safety or welfare is not compromised. Financial recovery may not be pursued in family and domestic violence matters because of the inherent risk to personal safety it could pose for victims.

The Victims of Crime Commissioner issued eight recovery intention notices in 2017-2018 but no offender contributions were recovered.

Medical examinations

When deciding an application for financial assistance, the Victims of Crime Commissioner may ask an applicant to attend a medical examination to ascertain the extent of a physical and/or psychological injury and obtain a medical report. This examination is paid for by the territory. A total of four medical examinations were requested during 2017-2018 at a total cost of \$6,553.82.

Reviews of Victims of Crime Commissioner's decisions

Decisions made by the Victims of Crime Commissioner under the financial assistance scheme may be reviewed internally or by the ACT Civil and Administrative Tribunal. In 2017-2018, the Victims of Crime Commissioner reviewed five decisions, confirming three and varying two. There were no external reviews conducted by the ACT Civil and Administrative Tribunal.

Volunteer program

Victim Support ACT's Volunteer Program provides practical assistance and support to victims of crime in the ACT, delivered by a team of dedicated, experienced and skilled volunteers.

This support includes, but is not limited to:

- court orientation and assistance with familiarisation of court processes and court etiquette
- support at Director of Public Prosecution and police meetings
- support when giving evidence in the courtroom and in remote witness rooms, and to attend sentencing hearings
- support to attend family violence and personal protection orders return conferences and hearings
- assistance with applications to the financial assistance scheme and with other justice related forms
- administrative support to the volunteer program, the Victims of Crime Commissioner and the financial assistance scheme team
- Volunteers are able to provide support in all, some or one of these roles, as agreed with the volunteer coordinator.

The program is administered as part of the Victim of Crime Commissioner's function under section 22(j) of the Victims of Crime Regulation 2000. During 2017-2018, 11 volunteers provided court support, financial assistance scheme application assistance, and policy and administrative assistance. The program will continue to expand in the 2018-2019 period.

Client and case manager testimonials

"Thank you for your kindness, strength and time in supporting us through a difficult time. The work you do has made a huge difference to our family."

"My client said she was grateful for the volunteer's presence last Wednesday. The outcome of the hearing was terrible but she felt well supported. The volunteer also came back to the office to give me feedback which I appreciated."

"I would like to thank you for all your efforts to explain, help, and guide me how to go over the financial assistance scheme. I really appreciate your understanding and kindness for giving your best to help me with my quest for justice."

Table 20: Court support provided by volunteers in 2016-2017 and 2017-2018

Measure	2016-2017	2017-2018
Referrals received (based on occasions/days of support required)	136	172
Number of clients assisted/supported	43	61
Number of occasions/days of volunteer support	68	103

Table 21: Financial assistance scheme application assistance provided by volunteers 2016-2017 and 2017-2018

Measure	2016-2017	2017-2018
Appointments booked	50	112
Number of clients assisted/supported (in person and over the phone)	30	77
Number of applications	No comparable data	81
Total hours of volunteer support	63	115.5*

Notes: * 1.5 hours per client appointment.

Policy and administrative assistance

Between April and June 2018, the volunteer program created new volunteer positions to trial the provision of regular administrative support to the financial assistance scheme team, the Victim Support ACT intake team and the volunteer program. This provided opportunities to retain existing volunteers who were looking to expand their volunteering role, welcome new volunteers looking for volunteering opportunities to build new skills as a pathway to employment and others continuing to utilise existing knowledge and skills following retirement.

Assistance included:

- assisting with administering the financial assistance scheme from receipt of applications and through various stages of the application's life cycle
- assisting case managers and the Intake team with processing paperwork relating to client referrals
- reviewing and developing volunteer role descriptions and communication templates for the program
- contributing to developing a volunteer feedback framework, and reviewing the Induction Handbook
- reviewing documents relating to the charter of rights for victims of crime community consultation surveys.

Table 22: Hours of policy and administration assistance for last quarter 2017-2018

Measure	April – June 2018
Hours of financial assistance scheme support	60
Hours of intake and case management support	25
Hours of volunteer program support	16.5
Hours of policy assistance	28.5
Total hours policy and administrative assistance	130

Volunteer feedback

Eight volunteers provided feedback on the Volunteer Program to Victim Support ACT's Principal Research Officer in June 2018. Feedback was sought on a range of topics in order to improve the volunteer program, and therefore the service provided to clients. Feedback has been analysed and a series of action items have been formulated.

Supervision and Debriefing: Volunteers felt supported by the Volunteer Coordinator role and highly valued debriefing to deal with exposure to traumatic content. Supervision through Lifeline is available to volunteers, however, has not been utilised to date.

Training and Development Opportunities: Volunteers appreciated the opportunity to participate in Victim Support ACT training alongside Case Managers on an ongoing basis and like that they are regularly invited to seminars and talks.

Quarterly Meetings: Volunteers saw quarterly meetings as an opportunity to share stories, talk through difficult matters, learn from each other and discuss ways to improve the service provided to clients. It made them feel a part of something bigger as the role can be "solitary" and "isolating".

Part of the Team: Volunteers feel more part of the team as a result of being invited to Victim Support ACT social events and interagency meetings as well as in-house training. These are opportunities to get to know staff. Volunteers feel valued and respected, that Victim Support ACT staff understand, appreciate and value their time which is given for free.

Volunteer participation

Training

Current volunteers attended a range of training and information sessions to further their understanding of the criminal justice system and to better support clients, particularly those experiencing family violence. Introductory financial assistance scheme training was delivered in June 2018 to four new volunteers. Ongoing financial assistance scheme training was provided in February 2018 to existing financial assistance scheme volunteers with a focus on raising the standard of service for clients as well as the financial assistance scheme team.



Victims of Crime Commissioner, Heidi Yates (right), with victim support policy officer, Sandra Wright at the DigniTEA High Tea event, May 2018.

Public Advocate and Children and Young People Commissioner

Role and functions

The role of the PACYPC is to:

- provide individual advocacy for children, young people and adults in the ACT community whose condition or situation makes them potentially vulnerable to abuse, exploitation or neglect
- monitor and foster the provision of services for persons experiencing vulnerability
- provide oversight in respect of the systems that support and respond to the needs of persons experiencing vulnerability
- engage with and listen to children and young people to ensure their voices are heard on issues that affect them
- improve services for all children and young people.

Wherever possible, the PACYPC undertakes individual advocacy with a forward focus to promote and ideally secure a response that ensures that an individual's rights are upheld. In both our individual advocacy and oversight work, we focus on ensuring that systems are doing what they are supposed to be doing in the way they are supposed to be doing it. In a general sense, the PACYPC may support people to exercise their rights by providing them with support to voice their concerns, access information, resolve issues of concern, and identify and access available options. We may also advocate for an individual where we identify issues with the provision of a service that is grounded in statutory obligations, particularly where these obligations are not being met. It should be recognised that individual advocacy can be a tool to mitigate against a situation becoming a complaint. In recognition of this, there are often situations where the Discrimination, Health Services and Disability and Community Services Commissioner will refer a matter to the PACYPC for advocacy as a means of facilitating an appropriate and more immediate response to the matter at hand.

The PACYPC approaches its systems advocacy work in a number of ways. Sometimes it may be one issue for one person that highlights a systems gap that may be applicable to a broader cohort and that would benefit from systems change. Or, it could be a progression in contemporary thinking and research into best practice that highlights a need for systems improvement and change. It could also arise as a result of systems analysis into other issues, which may highlight a disconnect or contributing factor within other systems. Systems advocacy can also arise from everyday engagement with systems that are functioning well, but where applying the principle of continuous improvement results in service improvements that enhance the functioning further.

The PACYPC's oversight role draws upon the various functions within our statutory remit to develop, maintain and improve our 'line-of-sight' to the various systems, services and supports that respond to the needs of people experiencing vulnerability. In doing so, we focus on ensuring that relevant systems are providing appropriate responses to the individual and collective experiences of children, young people and adults experiencing vulnerability.

Recognising the important protective factor that comes from children and young people being able to participate in decisions affecting them and being taken seriously, we are increasingly focussed on developing and improving ways by which to seek input from children and young people about the work that we do, and to provide avenues for them to have their say about issues that are important to them. Doing so has significant benefits for the development of good public policy, the design of successful interventions, and the delivery of effective services. Equally, the more we encourage children and young people to be vocal about issues that matter, the more likely it is that children and young people will feel that they will be listened to if they raise concerns about things that they personally experience. Giving children and young people a voice is the first step to empowering them, and to giving them the strength to speak out about both important societal issues and personal issues for which they may be needing support. Ultimately, engaging with children and young people about issues that affect their lives delivers better outcomes for everyone in community.

Key performance indicators

In 2017-2018, the PACYPC's client satisfaction exceeded the target of 75% with 83% of survey respondents recording a high or very high level of satisfaction with our team's services over the year. Using online surveys has increased the number of responses we receive and the additional anonymity has allowed people to provide clear feedback about the services provided. Over 50 people responded to the PACYPC satisfaction surveys in 2017-2018, with the satisfaction rating increasing from 74% in 2016-2017.

Some of the comments received from stakeholders in the last reporting period include:

- I appreciate the opportunity to meet regularly and discuss any concerns and give context.
- It was fantastic to have someone to call about a client who I thought was very vulnerable.
- Thank you for responding quickly to questions and pathways for referrals and assistance with matters.
- We appreciate the professionalism and knowledge of the Public Advocate team. (They are) always available to offer expert (advice) and display a commitment to upholding the rights of our client group, particularly in promoting innovative and high quality practice within a complex environment.
- Communication, particularly in writing, with the Magistrates Court in relation to matters which the Court has notified the PA about is very important & has greatly improved in the last 12 months. There has also been an increase in the number of times when a representative from the PA has attended court in connection with one of our family violence/ personal violence conferences which has been very helpful and ultimately, has saved court time and produced better outcomes.
- I worked closely with the Public Advocate while working in CAMHS. She was very professional and a delight to work with. I feel she advocates well for our patients and I was very grateful for her input in some complex situations as they arose.
- Without the intervention of the PA, no treatment would have been made available to the person I was caring for. The PA gave us a voice and access to mental health treatment that was unable to be accessed despite clinical urgency and severe impairment.

During the reporting period, 2,136 people were brought to the PACYPC's attention. Many were identified through documentation that, by law, must be provided as part of the PACYPC's statutory oversight and compliance monitoring of child protection, mental health and forensic mental health systems. Others were referred due to their vulnerability, or made direct requests for individual advocacy.

Direct advocacy was provided for 646 people; 30% of those brought to the attention of the PACYPC, which is above the projected target of 25%.

Documentation reviews were undertaken for 82% of people brought to the PACYPC's attention, exceeding the recently revised target of 75%. This performance indicator was revised upwards in 2017-2018 in recognition of the additional position in the area of mental health advocacy and the creation of a new position for children and young people.

Strategic Priority 1: make human rights relevant to everyone

In 2017-2018, the PACYPC actively sought opportunities to enhance community members' understanding about their rights and obligations under the *Human Rights Act 2004*; and about the role of the ACT Human Rights Commission and, more specifically, that of the PACYPC.

In addition to engaging regularly with community members and professionals who have ideas for how ACT laws, policies, services and programs could be improved for children and young people, and/or people whose condition or situation makes them potentially vulnerable to abuse, exploitation or neglect, the PACYPC collaborated with agencies to foster service improvement, consider policy reform, facilitate information sharing and promote practice improvements.

The PACYPC facilitated and/or contributed to numerous discussions that sought to improve human rights outcomes for the people of the ACT.

The PACYPC also undertook a number of targeted engagements to raise awareness of human rights at the request of various community groups and other stakeholders. Some of these are outlined below.

St Thomas More's Primary School

On 8 August 2017, the PACYPC presented to year 5/6 students at St Thomas More's Catholic Primary as part of their social justice studies. The presentation and facilitated discussion provided information about human rights within international, national and local contexts, and provided an opportunity for the children to raise and discuss social justice matters of interest to them.

International child law lecture

The PACYPC was invited by Professor Mark Hecht to present a lecture on 25 August 2017 as part of his international child law program at the Australian National University. In addition to providing an understanding of the local and national context for human rights, the PACYPC provided information and provoked discussion about the importance of ensuring cultural rights are appropriately considered in care and protection matters.

NAPCAN Play Your Part Awards

On 6 September 2017, the PACYPC attended the National Association for the Prevention of Child Abuse and Neglect (NAPCAN) Play Your Part Awards to present the award and talk about the important role that participation by, and engagement with, children and young people plays in keeping children safe. The Commissioner's speech centred on the right of children and young people to have their views heard about matters impacting them, and included references to legislative and human rights instruments that enliven this obligation.

Daramalan College

The PACYPC was invited to present to, and facilitate discussion with, a year 9 social justice class at Daramalan College on 30 October 2017. In addition to talking about the role of the Commission and providing information about local legislative frameworks, the Commissioner engaged with the students to discuss some of their individual projects and offer suggestions about possible research avenues that may assist in further grounding their work from a human rights perspective.

Project O – Colourathon

On 30 November 2017, the PACYPC presented a speech in support of Big hART's Project O Colourathon. Her speech centred on the rights and interests of people experiencing vulnerability, notably within the context of family violence. The PACYPC emphasised the importance of upholding the rights of children and young people, including their entitlement to additional protections by virtue of being a child, and also acknowledged the differing needs and perspectives of children and young people and their right to participate in decisions about their own lives. The PACYPC also worked with the young women who were active in the Colourathon efforts to develop their skills in advocacy and empowerment.

University of the Third Age

The PACYPC provided a presentation about the history of rights protection in the ACT to the University of the Third Age at Belconnen on 14 March 2018. In doing so, the PACYPC spoke about the role of the Commission as it now stands and expanded upon the evolution of her two statutory roles as Public Advocate and Children and Young People Commissioner. The PACYPC also discussed some of the current systemic priorities underpinning her work and responded to questions from those who attended the presentation.

Youth Justice Forum – Barnardos

On 14 June 2018, the PACYPC presented to Barnardos staff about the role and function of the Commission, and in particular the role of the PACYPC in respect of the care and protection system, focussing particularly on the youth justice system. In doing so, the PACYPC took a children's rights perspective to emphasise the importance of using the views of children and young people to guide continuous improvement and address the challenges for children and young people within these systems.

Strategic Priority 2: lead systemic change to address vulnerability

Contributions to policy development and systemic reform

Boards and committees

In 2017-2018, the PACYPC was a member of numerous boards and committees with responsibility for effecting policy development and/or systemic reform. The PACYPC's contribution to these discussions was focussed on ensuring appropriate regard for human rights and the furthering of systemic change that would lend itself to improved outcomes for persons experiencing vulnerability.

The committees through which the PACYPC sought to facilitate these objectives were as follows:

- Children and Young People Oversight Agencies Group (CYPOAG), Chair
- Blueprint for Youth Justice Taskforce, Co-Chair
- Royal Commission Working Party
- Australian Guardianship and Administration Council
- Australian and New Zealand Children's Commissioners and Guardians
- Official Visitor's Board
- Children and Young People Death Review Committee
- Department of Defence Youth Safe Advisory Board
- Department of Defence Joint Cadet Executive Board
- Reportable Conduct Scheme Governance Group
- AMC Oversight Agencies Group
- Family Matters Strategic Alliance
- National Coalition on Child Safety and Wellbeing
- Countering Violent Extremism Steering Committee
- National Museum of Australia – Discovery Centre Advisory Group
- Disability Justice Reference Group
- Beyondblue National Education Initiative—ACT Implementation and Engagement Group
- Elder Abuse Prevention Network
- Family Violence Inter-Agency Meeting.

The format for and operations of some of these committees underwent important changes in 2017-2018, as described below.

Children and Young People Oversight Agencies Group

CYPOAG was originally established in response to the ACT Human Rights Commission's 2011 review of the ACT Youth Justice System. Since this date, the oversight environment of the ACT has changed dramatically with the introduction of *Step Up For Our Kids*, the *Reportable Conduct Scheme* and creation of new offices, including the Inspector of Custodial Affairs and the ACT Office of the Senior Practitioner.

In response to the above changes, the outcomes of the *Royal Commission into Institutional Responses in Child Sexual Abuse*, and the important priority of establishing a child safe, child friendly Canberra, membership of CYPOAG was expanded so that it now includes the ACT Ombudsman, the Human Services Registrar, Legal Aid ACT, Official Visitors, and representation from the teams of the President and Human Rights Commissioner, the Discrimination, Health Services, Disability and Community Services Commissioner and the PACYPC within the Commission.

The expansion of this group is one step in meeting the need for information exchange and coordinated strategic thinking in the ACT's expanded regulatory and oversight environment as well as providing an opportunity to build a child safe and child friendly Canberra.

In conjunction, CYPOAG made the pointed decision to broaden its remit by re-focusing its activities on targeting systemic themes and trends emerging from joint discussions and analysis by the group's members. The members agreed to engage in targeted exploration of the opportunities and challenges associated with facilitating effective interventions and outcomes for children and young people in the ACT who have complex high-level needs. The first stage of this work was commenced in 2017-2018 and involved inviting key agencies to provide system-level information about their engagement with, and service response to, children and young people with complex high-level needs. This work will continue in 2018-2019.

Australian and New Zealand Children's Commissioners and Guardians

The Australian and New Zealand's Children's Commissioners and Guardians (ANZCCG) comprises national, state and territory children and young people commissioners, guardians and advocates. The ANZCCG aims to promote and protect the safety, wellbeing and rights of children and young people in Australia and New Zealand. The ANZCCG strives to ensure that the best interests of children and young people are considered in public policy and program development across Australia and New Zealand by:

- promoting the rights of children and young people, including their right to participate in decisions relating to them, as articulated in the United Nations *Convention on the Rights of the Child*
- ensuring the best interests of children are considered in the development of policies and programs
- giving voice to the views of, and encouraging direct consultation with, children and young people on matters that affect them
- encouraging systemic improvement, informed by evidence-based research, in areas that impact on the rights, interests and wellbeing of children and young people.

The ANZCCG key priorities for the coming years are:

- achieving better outcomes for Aboriginal and Torres Strait Islander children and young people
- promoting children and young people's engagement and participation
- upholding the rights of children and young people in youth justice
- improving the safety of children and young people in organisations
- promoting children and young people's safety and wellbeing.

It was agreed in the May 2018 meeting that the eSafety Commissioner and New Zealand's Children's Commissioner will become standing members of the group; this resulted in a name change such that the group is now known as the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG).

The ACT PACYPC led various initiatives of this group throughout 2017-2018, including a combined call to the Australian Law Reform Commission's watershed review of the Family Law System to ensure that the views and experiences of children and young people are sought and heard in the course of the review.

The ANZCCG also commissioned research by the Australian Centre of Child Protection (University of South Australia), which culminated in a paper on Assessing the Quality and Comprehensiveness of Child Protection Practice Frameworks⁵. The findings of this research in respect of gaps and limitations in dominant child protection practice frameworks being implemented across Australia are being considered in the respective jurisdictions.

Australian Guardianship and Administration Council

In 2017-2018, the Australian Guardianship and Administration Council (AGAC) established an organising committee for the planning and organisation of the 2019 AGAC National Conference. The PACYPC is a member of the organising committee, which has established the theme of the conference as '*Upholding rights, preventing abuse and promoting autonomy*'. The conference will be held on 14-15 March 2019.

AGAC is also taking a lead role in a number of pieces of work advancing the ALRC's elder abuse reform recommendations and in support of establishing a national plan to tackle the issue of elder abuse. In particular, in 2017-2018, AGAC commenced work on national best practice resources for enduring appointments, a discussion paper about enduring appointment laws and practices throughout Australia, and best practice guidelines for the participation of proposed represented persons in guardianship and financial management/administration hearings.

5 Finan, S., Bromfield, L., Arney, F., & Moore, T. (2018). *Assessing the quality and comprehensiveness of child protection practice frameworks*. Adelaide: Australian Centre for Child Protection, University of South Australia.

Consultation and submissions

In addition to membership on these committees, the PACYPC also provided advice and comment on a range of issues in 2017–2018, including tendering independent submissions to the following:

- The Senate Committee inquiry into the National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission – The PACYPC’s submission indicated general support for the establishment of the Quality and Safeguards Commission while emphasising the importance of: national leadership in working toward increased consistency across jurisdictions; the involvement of people with disability in the design of the Commission; support for decision-making for people with disability; and a NDIS code of conduct. The PACYPC also advocated for high priority to be placed on establishing a national framework for preventing and responding to abuse, neglect and exploitation; reviewing community visitor programs to assess the merits of establishing a national scheme; and ensuring the Commission’s operations are informed by the outcomes of the *Royal Commission into Institutional Responses to Child Sexual Abuse*.
- The Chief Minister, Treasury and Economic Development Directorate’s Reportable Conduct Scheme Discussion Paper – The PACYPC centred comments on the importance of considering the reportable conduct scheme within the context of the wide suite of policies and programs that are necessary to protect children and young people. More specifically, the submission spoke to the necessity for and importance of implementing child safe standards, and providing funding for training and resources to help organisations build their capacity to provide child safe and child friendly environments.
- The Australia Law Reform Commission’s Review of the Family Law System – the PACYPC submission advocated for the review to be conducted within the context of our international human rights obligations, notably emphasising the importance of taking a child-centred approach including by directly engaging children and young people in the process. The PACYPC also emphasised the importance of ensuring appropriate consideration for the needs of people experiencing vulnerability, and the need to ensure the requirement to make reasonable accommodations is established and clearly understood. There was also a key focus on ensuring the accessibility of the system for children and young people.

In addition to Cabinet submissions, the PACYPC also led and/or contributed to the development of the following submissions jointly tendered by the Commission:

- ACT Future of Education consultation
- Legislative Assembly’s inquiry into the implementation of the NDIS in the ACT
- ACT Law Reform Advisory Council’s inquiry into Canberra as a restorative city.

Further to the development of submissions, in 2017-2018, the PACYPC also contributed to the following:

- the Australian Human Rights Commission’s submission to the United Nations in respect of Australia’s progress in implementing the United Nations Convention on the Rights of the Child
- the review of the ACT Working With Vulnerable People registration scheme
- governance and support for the implementation of the ACT Reportable Conduct Scheme
- the exploratory work undertaken in support of the need for a Disability Justice Strategy in the ACT
- the review of the Official Visitor scheme
- the SNAICC Family Matters national stakeholder forum
- proposed amendments to the *Children and Young People Act 2008*
- national activity in respect of addressing violence against people with disability in institutional settings
- ongoing policy discussions about the rights of children and young people in respect of records relating to their care and protection histories
- the review of services and educational supports for students with disability
- discussions that informed the establishment of the ACT Office for Mental Health and Wellbeing.

Systemic priorities

Improved outcomes for Aboriginal and Torres Strait Islander people

The PACYPC continued to prioritise improved cultural competency for agencies working with Aboriginal and Torres Strait Islander children and young people throughout 2017-2018. To this end, a number of activities were progressed.

Cultural competency in care and protection

The PACYPC welcomed the announcement of the *Our Booris, Our Way* review and the establishment of the steering committee for the review, which is focused on informing systemic improvements to child protection systems, policies and procedures in respect of Aboriginal and Torres Strait Islander children and young people.

This year, the PACYPC continued the work from the previous year to work alongside Aboriginal people, or nominated representatives, from key agencies supporting children and young people to improve the cultural competency of non-government service providers in the care and protection system. The strategic priorities for this forum are to:

- engage the Aboriginal and Torres Strait Islander community to ensure their views direct the change agenda
- improve the intensive intervention and out-of-home care services' understanding and support for the cultural needs of Aboriginal and Torres Strait Islander children and young people and their families
- collaborate to influence and support preventative strategies to reduce the number of Aboriginal and Torres Strait Islander children and young people in care.

In early 2018, the PACYPC seized the opportunity to promote organisational change by creating learning opportunities for leaders through the redesign of the monthly meetings structure. The PACYPC invited local agencies and organisations who are implementing innovative and culturally appropriate services, initiatives and/or reforms to present, promote and share their learnings with the members. Throughout the year there have been a number of progressive pilots approved in the ACT by government agencies working in partnership with local non-government organisations, namely JACS and CSD. This forum has encouraged the sharing of knowledge to enhance cultural awareness and understanding, increased stakeholder referral pathways and partnerships as well as strengthened service integration.

SNAICC conference panel discussion

Building on the consultation conducted with Aboriginal young people in early 2017, the PACYPC worked together with a subset of the young people involved to develop a panel presentation for the SNAICC Conference held in Canberra on 12-14 September 2017. The young people involved were articulate in communicating their responses to the questions put to them and spoke with quiet confidence about their experience, and their views about what is important when it comes to creating culturally safe and supportive out of home care arrangements for Aboriginal and Torres Strait Islander children and young people.

Improved outcomes for children and young people

Child safe, child friendly organisations

Advocating for child safe, child friendly organisations was a critical, ongoing priority issue for the PACYPC in 2017–2018. At every opportunity the PACYPC advocated the urgent need for the ACT to adopt child safe standards, including through appropriate training and capability development initiatives to enhance the systems and processes used by organisations to protect children and young people and keep them safe.

The PACYPC remained a member of the ACT Royal Commission Working Group and, in this capacity, supported the ACT Government to develop its response to the *Royal Commission into Institutional Responses to Child Sexual Abuse*. The PACYPC continues to provide input to policy and service reforms in response to the recommendations and outcomes of the Royal Commission's report. Notably, the PACYPC's input is centred on ensuring a priority focus on child safe standards, the training and education of organisations in respect of child safe principles and how to operationalise these in practice, promoting the ongoing role of the PACYPC in monitoring services for the protection of children and young people, and ensuring that the participation of children and young people is recognised as an integral component of child safe, child friendly organisations.

The PACYPC was also an external member of two Department of Defence boards —the Defence Youth Safe Advisory Board and the Joint Cadet Executive Board. These boards are responsible for developing and embedding a youth safe framework across all three arms of Defence.

In support of this work, the PACYPC also presented a session focussed on child safe principles, and the importance of participation by children and young people, at the Australian Defence Force Cadets Youth Safety Forum on 29 July 2017.

Focusing on the goal of pursuing a child safe and child friendly Canberra will continue to underpin the work of the PACYPC in the next reporting period.

Blueprint for Youth Justice

The pathways and supports available to young people transitioning out of youth detention continued as a priority focus area for the PACYPC in 2017-2018, particularly through our advocacy, oversight and monitoring functions for Bimberi and active involvement in policy and service reform processes.

The PACYPC continues to monitor the implementation of the *Blueprint for Youth Justice in the ACT 2012-2022* reform which adopts an evidence-based, trauma-informed and human rights compliant policy approach to youth justice in this jurisdiction. The PACYPC is also co-chair of the Blueprint for Youth Justice Taskforce. During this reporting period the Taskforce commissioned research by Mentally Friendly in developing a policy paper on *Interventions for young people in early adolescence at risk of offending*, and *Intergenerational transmission of offending*.

In November 2017, the PACYPC facilitated a workshop with key stakeholders to explore ways by which to improve throughcare for children and young people who come into contact with the youth justice system. Discussion centred strongly on re-crafting the way in which throughcare is provided in the ACT, with stakeholders speaking of the need to approach throughcare more as a continuum of care that may be enlivened at whatever point a child or young person may first be identified as being at risk of coming into contact with the system.

The Commissioner acknowledges government and community progress in prevention and diversion of young people although further work is needed to promote reintegration, ensure supports are in place for young people in the community and in tackling recidivism.

Young people exiting care

Building on the findings from a joint project with Premier Youth Works (PYW) in 2016-2017, which reviewed the adequacy of transition plans for young people leaving residential care, the PACYPC identified transition from care as a key area of interest for 2017-2018. Over the past 12 months, a substantial amount of work has been put into this area and the PACYPC has seen significant changes in the service response for young people exiting from care. ACT Together has created a Transition from Care Panel, inviting the PACYPC, CYPS and other members of the consortium to provide feedback, direction and expertise on transition plans for any young person over the age of 15 years. The aim of the panel is to provide specific detail on actions needed to facilitate a successful transition, time frames for actions to be completed, and those responsible for follow up on identified actions.

While there is now a plan in place to ensure that all young people over 15 years in out of home care (OoHC) have appropriate transition plans, the PACYPC is aware the gaps previously seen in transition plans will continue to have effects on young people who have already left care and will continue to advocate on their behalf.

Local drug action team initiative

In addition, the PACYPC worked in collaboration and partnership with Directions ACT to establish a local drug action team (LDAT). Directions ACT successfully obtained initial funding of \$10,000 through the Alcohol and Drug Foundation to develop a LDAT community action plan. The plan seeks to connect children and young people at risk of developing their own patterns of substance use with recreational, sports and capacity building programs to assist in preventing and reducing harm from alcohol and other drugs. The PACYPC will continue to support the project work associated with this initiative throughout the next reporting period.

Improved outcomes for people in contact with mental health/forensic mental health systems

In response to issues identified in the course of undertaking monitoring functions, the PACYPC has intervened in numerous matters, both individually and systemically to improve systems and address concerns.

Intervention by the PACYPC achieved a wide range of outcomes in 2017-2018. Advocacy as addressed the need for effective discharge planning in individual situations, also facilitating active participation by consumers and their families in their treatment, care and support.

As a result of concerns raised by the PACYPC, changes were made to the restrictions put in place on people transferred to the Adult Mental Health Unit (AHMU) from the Courts, information packs were provided to consumers at AMHU and the PACYPC participates in the review process for seclusion and restraint.

Improved outcomes for people with disability/complex needs

Elder abuse

The PACYPC is part of the ACT Elder Abuse Prevention Network and attended meetings throughout the year. Membership of this group enables the PACYPC to work in collaboration with other stakeholders in responding to elder abuse in a cohesive and integrated manner, and facilitates clearer pathways for the provision of necessary support, legal assistance and advocacy.

During 2017-2018, the PACYPC met with the Office for Veterans and Seniors, CSD and with a representative from Civil Law, Legislation, Policy, Programs, JACS to discuss national reforms, responses to elder abuse in the ACT, and the role of different agencies. The PACYPC will continue to be actively involved in ongoing policy development and reforms occurring in relation to elder abuse to further facilitate a coordinated and integrated response.

Collaboration with the Public Trustee and Guardian and the Office of Disability

The PACYPC and the Public Trustee and Guardian (PTG) meet monthly to discuss matters of joint concern, scope the potential for systemic projects, and to facilitate communication and referral pathways. This is been an effective process particularly when both agencies are working together on a matter.

Both offices also met for a networking event, which was beneficial in building working relations and in discussing strategic priorities for each office. The PACYPC acknowledges the commitment and support of the PTG in progressing more effective service responses for people with disability and looks forward to working together on systemic issues.

The PACYPC and PTG also have regular meetings with the Office of Disability, which enables key concerns to be discussed, such as issues relating the needs of clients with high and complex needs and the capacity of the NDIS to respond to these. The Office of Disability has been of assistance in liaison between the PACYPC and PTG, and the NDIS in relation to facilitating improved outcomes for people with intensive support needs.

Management Assessment Panel

In 2017-2018, the PACYPC worked to raise awareness of the Management Assessment Panel (MAP) process and potential benefits for individuals with complex support needs where service coordination was inadequate. This resulted in an increased number of referrals in 2017-2018. In response to the increase in referrals and the complexity of matters being referred to the MAP, the PACYPC will be developing a panel of independent chairs to ensure responsive and timely provision of panel meetings.

Proactive monitoring and oversight

Children and young people

Bimberi Youth Justice Centre

The PACYPC maintained a close monitoring role for Bimberi throughout 2017–2018. Oversight for Bimberi includes reviewing segregation, strip search and use of force registers.

This year the PACYPC initiated a process of cross-referencing the reviews of registers, particularly use of force, with regular perusal of CCTV footage in relation to incidents within Bimberi. While it is acknowledged that the lack of audio presents a challenge in terms of obtaining a full understanding of how incidents unfold, it is hoped that this cross-referencing process may enable the PACYPC to support ongoing improvement in reporting practices.

The cross-referencing of CCTV footage against reporting will continue in the next reporting period.

Monitoring of children and young people with complex high-needs

Over the past two years, the PACYPC became increasingly concerned about a small number of children and young people in the ACT who have complex high-level needs, requiring multiple service responses. Behaviours demonstrated by these children and young people are extreme, requiring skilled intervention and treatment across multiple systems and a coordinated response. Respecting the need for the privacy of the children and young people brought to the attention of the PACYPC, a combined analysis of these cases demonstrates recurrent themes described below:

- Common factors presenting across the cases include multiple presentations at hospitals, disengagement or suspensions from education, admissions into adult mental health facilities, contact with the justice system, drug and alcohol abuse, disability, multiple OoHC placement breakdowns, and family disengagement.
- Alarming, there has been an increasing number of young children under the age of 10 years old exhibiting complex trauma-related behaviours.

- Young people's behaviour has escalated to high risk-taking behaviours.
- Behaviours included extreme self-harming behaviours and suicidal ideation, such as cutting, repeatedly banging their heads against walls, attempts at strangulation, attempts to set themselves on fire, running into oncoming traffic, and overdosing on medication.
- Further, many involved repeated physical assaults (including with implements such as knives) of parents, carers and staff, which in some cases resulted in hospitalisation.
- In a number of cases, the responses for young people with challenging behaviours did not seem to reflect the same level of service response as that received by younger children.
- Children (under 12 years) have generally come to the attention of the PACYPC by way of referral from education or health services.
- Young people (12 years and over) typically come to the attention of the PACYPC through the justice system or mental health services.
- When a child or young person is on care and protection orders, the PACYPC has been notified by CYPS or ACT Together, or as a result of being on a care team for the child or young person.



Complex high-level needs

A young person presented to a police station stating they were homeless, which resulted in an emergency action (EA) being taken. Further investigation by the PACYPC indicated that 68 child concern reports (CCR) had been made to Child and Youth Protection Services (CYPS) over the last 10 years, including allegations of physical abuse, sexual assaults, self-harming, family conflict, absconding from the family home, drug use, mental health admissions, suicidal ideation, sexual exploitation and homelessness. The PACYPC made a section 879 request to obtain an understanding of the CSD Director-General's assessment of the high number of CCRs and the support plans put in place to support this young person over the 10 year period, particularly when this young person had a history of absconding from the family home for days at a time. The young person's parent was assessed as "willing" however there were questions raised by the PACYPC concerning the capacity of the parent and whether they were "able" to provide for the young person's care and protection.

The ACT currently lacks adequate facilities to respond appropriately to the needs of such children and young people. Some young people have been detained in youth justice facilities not for the community's protection or to reduce the risk of reoffending, but to ensure the children and young people's own safety or wellbeing. There appears to be a lack of coordinated and effective service response for children under the age of 10 years. A longstanding service gap within the ACT service system is the absence of a mental health facility for children and young people with mental health conditions or traumatised behaviours.

The PACYPC will continue to advocate for a child and adolescent mental health facility. The PACYPC is also working closely with the Australian Childhood Foundation (as part of ACT Together), Child Adolescent Mental Health Services, Child at Risk Health Unit and Melaleuca Place in developing an agreement on how to best support children and young people in OoHC therapeutically, to avoid duplication and create a collaborative approach in support this vulnerable group of children and young people. The group is currently agreeing on the terms of reference. The PACYPC will continue to work and support the group over the next reporting period.

Due to the high-level concerns held by the PACYPC, the Commissioner also brought this issue to the attention of CYPOAG to examine the issue in more detail with the aim of advocating for systemic changes and service improvements.

An alarming trend that has come to the attention of the PACYPC this year, which will be a key focus for the next reporting period, is the number of young women who are being, or are at risk of being, exploited in the community. The PACYPC is disturbed by the growing number of vulnerable young women being brought to our attention where they have become involved in high level risk-taking behaviours, including drug taking and sexual exploitation by older men. The PACYPC will continue to monitor this situation and scope opportunities to undertake further research on this issue.



Exploitation of a young woman

A young woman, known by members of the community and police for her vulnerability (including her involvement in serious drug use and minor crimes) was arrested by police for minor charges. Under further investigation, however, it was disclosed that she was in an unsafe relationship with a man over 50 years old. This young woman had attempted to end this relationship in the past, which had resulted in her and family members being seriously physically assaulted. She had disclosed that she had been forcibly injected with drugs and forced to stay with this man over numerous weeks. During her remand, this young woman said she was fearful for herself and her family's safety upon her release; and expressed her wish for this man to be kept out of her life. Upon her release, she has not had contact with this man however has mentioned that there are a number of other men who are willing to exchange drugs for sexual favours from young people.

People with disability and complex needs

The PACYPC is part of a comprehensive oversight system that seeks to ensure the rights and wellbeing of people in detention in the ACT are maintained. In the course of this past year's oversight activities, the PACYPC raised concerns about the limited access to disability specific supports in the AMC. While the AMC has tried to arrange support from community based providers to be delivered into the prison for a small number of people, this has had limited success. The PACYPC is pleased to note, however, that a commitment has now been made to progress options to enable these supports to be in place in a timely manner.

People in contact with the mental health/forensic mental health systems

A number of issues were identified in 2017-2018 that necessitated regular monitoring; many of these issues were raised and addressed as service and system improvement matters.

In comparison to larger states, the ACT has a limited range of specialised units or teams addressing complex situations. For some people, specialised interstate facilities may provide appropriate treatment options. For others, access can be limited as facilities do not accept many interstate referrals, or the travel required or being away from home is not feasible. The issue of highly specialised treatment particularly for young people with complex needs warrants further consideration in this jurisdiction and will continue to be a focus for the PACYPC.

Another issue is related to the ongoing use of temporary staff, significant changes of clinicians and inconsistency in treating teams within the inpatient facilities at the Canberra Hospital. It has been publicly reported that the number of psychiatrists in the ACT is below the recommended level and there have been changes in senior clinical positions. Many consumers reported being negatively impacted by the changes within their clinical teams. In 2018-2019, the PACYPC will work with the newly formed Office for Mental Health and Wellbeing to explore means by which to facilitate improved outcomes in respect of these issues.

The *Mental Health Act 2015* includes provisions relating to the provision of information to and involvement of carers in mental health treatment, care and support. However there has been a strong emergence of families identifying that they are not been included. The PACYPC is working actively to encourage and facilitate more effective communication between parties and the active involvement of carers in discharge planning.

People diagnosed with borderline personality disorder (BPD) have also continued to be identified as a group requiring a more comprehensive and integrated model of care. The Women's Centre for Health Matters *Borderline in the ACT*⁶ website provides a strong point of reference for the sharing of experiences and information related to the needs of people diagnosed with BPD. The PACYPC commends the Centre for this important initiative. Further integration and expansion of responses for people with Borderline Personality Disorder in the ACT would be beneficial.



Advocating for urgent housing

A young woman diagnosed with BPD had been in unstable living arrangements for a significant period of time and, prior to admission for inpatient mental health treatment, had been homeless. An application was made for ACT Housing. Her community mental health team and other support agencies, together with the PACYPC, actively advocated for the urgent provision of stable housing for her. Just prior to her discharge, the PACYPC also facilitated a meeting of her inpatient treating team and community support agencies, including community mental health, to finalise discharge plans. This meeting enabled her discharge in a timely manner and ensured safe and adequate supports were in place.

6 <http://www.borderlineintheact.org.au/>

Strategic Priority 3: enhance services and service delivery

Children and young people

The PACYPC receives information about children and young people's circumstances through a range of statutory pathways, primarily associated with provisions within the *Children and Young People Act 2008* (CYP Act). During the 2017-2018 reporting period, 928 children and young people were brought to the attention of the PACYPC, reviews of documentation occurred in relation to 716 children and young people, and direct advocacy was provided on behalf of 227 children and young people.

Allegations of abuse in care (section 507 reports)

When CYPS undertakes an appraisal of an abuse in care allegation for a child or young person in OoHC, the CSD Director-General must inform and report the matter to the PACYPC under section 507 (s507) of the CYP Act. The PACYPC receives notice from CYPS for each section 507 report.

In the 2016-2017 Annual Report, the PACYPC raised the issue of delays in the PACYPC being notified after the Director-General received a CCR. The delay in receipt of this information impacted on any meaningful and timely intervention the PACYPC could potentially undertake on behalf of these children and young people.

The PACYPC is pleased to report that in this reporting period, processes were revised to address these concerns. The Director-General now provides a fortnightly list of all children for whom there is an open appraisal regarding an allegation of abuse of a child or young person in OoHC. In addition, the Director-General now also provides the PACYPC with a copy of the CCR and appraisal documentation at the time of formally reporting under s507 of the CYP Act. The provision of this additional information has enabled the PACYPC to have a more fulsome understanding of the circumstances surrounding the appraisal process, which has reduced the need for the PACYPC to request further information under section 879 of the CYP Act.

Notwithstanding the positive steps to improve information sharing, there are still considerable challenges in the timescales from when the CSD Director-General receives a CCR and the PACYPC being provided with details in respect of completed appraisals.

There were 74 notifications made to the PACYPC under s507 of the CYP Act in this reporting period, compared with 63 last reporting period. Of the section 507 notifications received by the PACYPC, only 13 reports were provided within a 3-month period. Forty reports took between 3-6 months to reach the PACYPC, 6 took between 7-9 months, 9 between 10-12 months and 6 reports were received by the PACYPC over 12 months later.

Last year the average time frame for receipt of s507 notifications was four months, in 2017-2018 the average is over 6 months. It is unclear whether reporting length relates to administrative processes, an increasing complexity of matters being reported or systemic matters that may benefit from closer attention. In 2018-2019, the PACYPC will work with CYPS to explore this further.

It is also worth noting that of the 74 reports received by the PACYPC, only four of these reports were substantiated, three of which related to a sibling group. This low number of substantiations is similar to the 2016-2017 reporting period. Over the last two years, of the 137 reports of allegations of abuse in OoHC for which CYPS undertook an appraisal, only 8 matters (5.9%) were substantiated noting that for a matter to be substantiated, it must be determined that significant harm has occurred.

Table 23: s507 notifications to the PACYPC

Timeframe for notification	Number of C&YP 2016-2017	Substantiated 2016-2017	Number of C&YP 2017-2018	Substantiated 2017-2018
Under 3 months	18	0	13	0
3 months – 6 months	35	3	40	3
7 months – 9 months	10	1	6	0
10 months – 12 months	0	0	9	0
1-2 years	0	0	5	0
2 years+	0	0	1	1
Total	63	4	74	4

Further analysis of the s507s received by the PACYPC in 2017-2018 indicated 55% of the notifications concerned children and young people in kinship care, 26% were in foster care, just under 14% were in residential care and the remaining children and young people were residing with parents or in other types of arrangements.

The significance of the s507 oversight process by the PACYPC is highlighted by the case study below.



Allegations relating to domestic violence in a kinship placement

Information provided to the PACYPC under section 507 of the CYP Act indicated that the presenting issue for a young person involved allegations relating to domestic violence in a kinship placement. The matter had not been substantiated. The PACYPC issued a request for further information under section 879 of the CYP Act. Information received indicated that one of the kinship carers had been incarcerated for a period of time due to domestic violence although this did not appear to have been brought to the attention of the Director-General for some months. The PACYPC was concerned about the adequacy of the kinship assessment undertaken prior to the placement of the young person and the level of supervision of the placement. Following intervention by the PACYPC in this matter, a further appraisal was undertaken, which suggested that the young person should be placed with other extended family.

Requests for information (section 879 requests)

In exercising a statutory function under section 879 (s879) of the CYP Act, the PACYPC may ask an ACT child welfare service to provide information, advice, guidance, assistance, documents, facilities or services in relation to the physical or emotional welfare of children and young people.

As evidenced by previous annual reports, there was a significant increase in s879 requests by the PACYPC in 2015-2016. This was due, in part, to changed processes in relation to the Director-General's provision of information under s507 of the CYP Act.

The recently endorsed Operational Protocol between the PACYPC and the Director-General, CSD, has supported changes to communication processes between CYPs and the PACYPC. As outlined previously, this includes the provision of additional information provided to the PACYPC under s507, which has led to a reduction in s879 requests (see table below).

Table 24: s507s and s879 requests by the PACYPC

Reporting year	2015-2016	2016-2017	2017-2018
s507 notifications	56	63	74
s879 requests	121	89	38

In addition, there is improved information sharing processes with ACT Together and with CYPs overall. The relationship with the ACT Together consortium has allowed for open and transparent information sharing channels resulting in a less formal and more time efficient request process, mitigating the need for formal s879 requests in some instances.

The PACYPC acknowledges the efforts of both CYPS and ACT Together in facilitating improved communication processes as this will facilitate better outcomes for children and young people. The PACYPC and ACT Together are working toward finalisation of an Operations Protocol in 2018-2019.

Emergency actions (section 408 reports) and court attendance

The PACYPC continues to prioritise attendance at Children's Court in relation to children who have been removed under Emergency Action (EA). An EA must be notified to the PACYPC under s408 of the CYP Act. In this reporting period there have been 115 children removed under EA and the PACYPC has attended court in relation to 73 matters.

The PACYPC has become involved in a number of cases due to a parent having a cognitive impairment and/or mental health concerns. In some instances, this has led to the PACYPC making applications at ACAT for a Guardian to be appointed for legal matters. The PACYPC has also supported an appeal to Legal Aid to facilitate a parent being able to obtain legal support. The PACYPC has also been involved in two cases referred by the Magistrates Court to Legal Aid, which required mediation to determine if the parties could come to an agreement in relation to the care matters.

Annual review reports

Section 495 of the CYP Act requires the Director-General to prepare an annual review report (ARR) for a reviewable care and protection order at least once every 12 months while the order is in force or, if the order is in force for less than 12 months, when the order expires. Under s497 of the CYP Act, the Director-General must provide a copy of each ARR to the PACYPC.

A child's/young person's ARR is an account of that child or young person's life in OoHC over the preceding year. It forms an integral part of the child or young person's life story throughout their care journey and should provide an accurate and contemporary account of their life under the care of the Director-General.

As reported in 2016-2017, while the majority of reports were received within legislatively compliant periods, it was unclear whether reports provided a contemporary account of the child or young person's life over the previous year, particularly if reports were not provided to the PACYPC in a timely manner. A delay in the receipt of a report can also impede the ability of the PACYPC to undertake meaningful and effective advocacy on behalf of children and young people.

The PACYPC reviewed 778 reports in the 2017-2018 reporting period. As illustrated by the table below, there remain significant delays in the PACYPC receiving ARRs.

Table 25: Timeframes for receipt ARR 2016-2017 and 2017-2018

Time frame for receipt	2016-2017	2017-2018
< 3 months	31%	25%
4 – 6 months	34%	23%
7 – 9 months	18% ¹	18%
10 – 12 months	11%	14%
> 12 months	6%	19%

In 2018-2019, the PACYPC will review the quality of the reports received, looking in particular for evidence that children and young people's views are being actively sought and that they have the opportunity to participate fully in the process.

Residential care

Throughout 2017-2018, the PACYPC undertook inspections of all PYW residential care properties to ensure the properties were up to standard, including being child safe and child friendly, and therapeutic in nature. Overall, the properties were of adequate standard with only a few minor recommendations made.

The consultation undertaken with children and young people in residential care provided a number of recommendations; these will be included in the outcomes report. The PACYPC also provided intensive advocacy for some individual cases, including by highlighting systemic concerns relating to placement matching and the need to maintain appropriate staffing ratios.

¹ This figure differs to that reported in the 2016-2017 Annual Report. The error is linked to having a database system that is no longer fit for purpose. The Commission has received funding in 2018-2019 to develop a new whole-of-Commission database system.

The case study below illustrates how the PACYPC's individual advocacy often leads to systemic intervention.



Individual advocacy resulting in systemic level intervention

The PACYPC had been closely monitoring the situation for a young person living in residential care due to their level of vulnerability and risk-taking behaviours. The situation deteriorated and led to the young person being detained in the AMHU under emergency detention. The hospital assessed the young person as ready for discharge, however the young person's support agencies expressed apprehension regarding the perceived level of risk and how this could be safely managed in the community. However, a prolonged stay in the AMHU was also considered detrimental to the young person's wellbeing. There was also a level of dispute between the various agencies regarding who was responsible for the young person's care.

As a means of breaking the deadlock in this case, the PACYPC convened and chaired a multi-agency case conference involving all relevant agencies including ACT Together, CYPs, and hospital and community mental health clinicians. It was identified that communication barriers existed between the agencies, which presented an obstacle to multi-agency planning to meet this vulnerable young person's needs. Through the PACYPC's intervention, a care plan was developed to facilitate ongoing planning for the young person's discharge from hospital back into the community.

Bimberi Youth Justice Centre

Over the past reporting period, the PACYPC maintained a regular presence at Bimberi, visiting an average of approximately three times each month. These visits involve a monthly review of the registers (strip searches, time out, use of force and segregation) and engaging with children and young people detained there to identify any issues of concern. Advocacy activities undertaken for children and young people included attendance at court, attending meetings with young people in Bimberi and in residential care settings, and participating in case conferences or Declared Care team meetings.

Inspection of the use of force register

The PACYPC has reviewed 152 separate occasions relating to the use of force on young detainees. This reflects a significant increase from the previous reporting period when there were 84 occasions of use of force documented.

Table 26: Number and reasons recorded for the use of force

Reason for use of force	Number
To stop a fight between young detainees	39
To prevent escape (usually in relation to a young person escorted outside the centre to attend a medical appointment and being restrained by handcuffs)	33
Detainee refusing the direction of staff	30
To prevent an assault on staff	12
To stop a young person running away whilst in the centre	9
To stop damage to property	8
To prevent a young person harming themselves	7
To prevent a riot in the Centre	4
In response to a 'code black' being called	4
Due to a young person being disrespectful to staff	3
Due to a young person presenting as high risk	2
To enforce a segregation direction	1
Total	152

Following on from the inspection of the use of force registers, the PACYPC has reviewed related CCTV footage on three occasions, which related to incidents involving multiple members of staff.

The PACYPC continues to discuss possible themes and trends with senior management at Bimberi with a view to better understanding changes in the incidence of use of force.

Use of lockdown

The amount of time that young people were locked in their cabins at Bimberi was a significant area of concern brought to the attention of the PACYPC by young detainees in the last reporting period.

Upon enquiry, the PACYPC was advised that the increased use of operational lockdown processes primarily related to staffing challenges being experienced by Bimberi. It is noted that this appears to have been resolved through recruitment processes in the second half of 2017-2018.

In the 2016-2017 reporting period, the PACYPC did not gather data on the use of lockdown. The PACYPC has postulated, however, that the increased use of lockdown may have a correlation to the increased use of force.

The PACYPC was informed of 144 occasions of the use of operational lockdown in the 2017-2018 period. These lockdowns are in addition to other lockdowns that are used in response to differing 'code' responses following incidents in the centre.

All detainees are locked in their cabins for 13 hours each night. Data provided to the PACYPC indicates that the additional operational lockdown periods resulted in at least 34 occasions when young people were in lockdown for 14 hours per day, 91 occasions when they were in lockdown for 15 hours per day, and 12 occasions when young detainees were in lockdown for 17 hours per day. There are also seven occasions of rolling lockdowns where the PACYPC was not provided with details about the length of the lockdown.

It was noted by PACYPC staff on their regular visits to Bimberi that there were periods of heightened tension within the centre with young detainees exhibiting high levels of unhappiness and discontentment with lockdown arrangements. The PACYPC brought these concerns to senior management's attention, notably after a visit to the centre on 16 February 2018 when the PACYPC had particular concerns about the level of unrest within Bimberi.

The PACYPC acknowledges that, following the recruitment of new staff, there have been no reported lockdowns since 31 May 2018.

Strip searches

In the last reporting period, there were 51 instances of strip searches with no contraband found. This is in stark contrast to the use of strip searches in the previous reporting of 2016-2017 when strip searches were used on 78 occasions.

Segregation

Over this reporting period there have been 10 instances of segregation in relation to six young people.

Advocacy for young people in Bimberi

As part of the PACYPC's role in Bimberi, the PACYPC regularly meets with young detainees to hear any concerns or matters they wish to raise. In this reporting period, the PACYPC has formally raised 27 individual matters in writing with the Bimberi director.

The issues raised by young people include: feeling hungry due to not getting enough food; staff having an inconsistent approach in relation to how detainees are treated; concerns that the correct medication was not being provided; the cleanliness of parts of the facility; access to fresh air; phones not working; lack of response to complaints lodged by young people; and the level of time spent in their cabins due to lockdowns.

Senior management of Bimberi have responded to all enquiries in a timely manner and when requested have met with the PACYPC and young people to discuss their concerns and provide an explanation of centre policy or the rationale for actions undertaken by staff. All matters were resolved.

Transition from out of home care

Over the course of the year, the PACYPC became aware of a number of cases where young people had left OoHC; and up to 24 months after leaving care, had not received adequate transition from care planning or support. This resulted in them exiting formal care into unstable placement options and homelessness.



Young person transitioning from out of home care

A young person who had exited OoHC contacted the PACYPC to raise concerns about the support they received whilst in the care of the Director-General; and advising they had to “couch surf” after they left care. The young person was in crisis homelessness accommodation and was concerned they would be homeless within 3 months if there were unable to access permanent accommodation. The young person also had some ongoing health needs.

The PACYPC called a meeting with the homelessness agency, ACT Together and the young person. The allocated case worker from ACT Together was actively supporting the young person and had accessed financial support to meet some of the young person’s health needs. As a result of the PACYPC’s intervention, the homelessness agency agreed to continue supporting and accommodating the young person until they could move into permanent accommodation.

Given the issues identified above, the PACYPC has concerns that other young people who have left care may also fall through the cracks, especially given that once a young person turns 18, there is no legislative means by which the PACYPC can monitor post order support provided to young people leaving care. The PACYPC is only able to access information in such instances if a young person directly contacts the PACYPC and gives consent for the PACYPC to do so.

Despite the work undertaken in 2016-2017 regarding the quality of transition plans, the PACYPC retained concerns about the level of detail in plans, the degree and adequacy of referral to services, and the limitations in access to financial support as part of transition planning. In response to the PACYPC raising this concern with ACT Together, the development and piloting of Transition Panel arrangements was instigated in 2017-2018. This panel comprises members from CYPs, PACYPC, and ACT Together and provides specialised knowledge or advice on transitioning from care. This model will continue to be used as the benchmark for transition planning for 2018-2019.

Operational oversight meetings with services for the protection of children and young people

During this reporting period, the PACYPC continued to convene monthly meetings with CYPs, ACT Together, Uniting, Premier Youth Workers and the Official Visitors. These meetings have facilitated open discussion on concerns and enabled joint work in resolving matters. The PACYPC acknowledges the commitment of agencies to working together in the interests of upholding the rights of children and young people, and responding to concerns regarding their physical and emotional wellbeing.

Mental health/forensic mental health

Under the *Mental Health Act 2015*, a key role for the PACYPC is consumer-focused monitoring and statutory oversight. This year the PACYPC has identified systemic trends through individual advocacy, review of mental health documentation and processes, and consumer identified issues.

Issues emerging within mental health advocacy this year included the need for more effective communication with family members of people receiving mental health services, limited effective responses for people with borderline personality disorder, access to legal assistance and support for complex legal matters, parents with complex needs who are involved with child protection, young people with complex needs engaging with multiple service systems, access to NDIS supports for people with psychosocial disability and shortage of mental health professionals in the ACT.

The issues experienced by people with psychosocial disability in accessing the NDIS has been a critical and continuing focus for the PACYPC this year. In addition to advocacy provided in response to access and service provision issues in 2017-2018, the PACYPC also led the development of a number of Commission submissions addressing consumer concerns about the implementation of the NDIS.

Individual mental health advocacy

During 2017-2018, the PACYPC provided 1,282 occasions of individual advocacy for 461 children, young people and adults who had contact with mental health and/or forensic mental health services. This included the provision of individual advocacy for 370 adults with mental illness, 57 people involved with forensic mental health services and 34 young people experiencing mental health concerns.

Visits to mental health facilities

In performing its oversight functions, the PACYPC continued its regular visits to ACT public mental health facilities. This included regular visits to the ACT's secure mental health facility Dhulwa, Canberra Hospital's AMHU, Calvary Public Hospital's Ward 2N, and to the AMC. Meetings occur at a frequency that responds to the needs of the different client groups.

The PACYPC met with 174 individuals on 367 occasions during these visits. The average number of visits per consumer increased from 1.5 in 2016-2017 to 2.1 this year, reflecting our stronger focus on more vulnerable consumers. These visits enable some of the most vulnerable consumers to access PACYPC support and for the PACYPC to contribute to the ongoing development of mental health services through both individual advocacy and feedback to facilities.

Table 27: Visits to people in mental health facilities

Reporting period	Number of people	Number of visits
2015-2016	88	126
2016-2017	160	244
2017-2018	174	367

During these visits, the PACYPC meets with consumers to provide information, discuss concerns and address issues. In addition to visits with individuals, the PACYPC also attends these facilities to support consumers in case discussions, recovery-focused care planning meetings, and in discharge planning meetings.

Notifications under mental health and guardianship legislation

The PACYPC receives notifications from mental health services, health care professionals and ACAT under the *Mental Health Act 2015* and the *Guardianship and Management of Property Act 1991*. During the reporting period, 5,448 notifications were received for 1,073 people. This reflects a small reduction in the number of people compared to last year, however there was a slight increase in the total number of notifications.

Notifications were reviewed for compliance with legislation and human rights, to identify individuals needing advocacy, and to analyse and identify emerging systemic trends.

ACAT mental health hearings

In 2017-2018, the PACYPC continued to review all applications for mental health orders to determine if having the PACYPC attend a hearing would better support the person, ensure their voice was heard, and promote greater realisation of consumer rights.

The PACYPC attended 278 hearings for 217 individuals. This continued high rate of attendance supports the PACYPC's aim of ensuring the legislative principles for mental health consumer rights are upheld.

PACYPC participation results in consumers and their families having greater awareness of and participation in the process, as well as providing external scrutiny from outside the mental health system. The need for further individual advocacy is also identified through these processes.

Complex needs/disability

In 2017-2018, the PACYPC provided advocacy for 64 individuals with complex disability support needs on 279 occasions. Advocacy targeted concerns including the lack of suitable accommodation, poor or inadequate support, inconsistent supports, and difficulties interacting with and negotiating systems such as the NDIS and aged care.

A high proportion of individuals referred for advocacy assistance were either NDIS participants or individuals engaged with aged care assessment teams. Advocacy support tackled concerns identified by the individuals, their family or by their support services.



Advocacy following referral to PACYPC

A referral was received from the parent of a primary school aged child with significant behavioural issues and high-level complex needs. The PACYPC was concerned that there was a risk of the parents relinquishing care of their child (albeit with great reluctance) as they had been advised that funding allocated in the child's NDIS package had been provided in error and would be reduced. The PACYPC was requested by the parents to support them in the NDIS review process for this matter. With the assistance of the PACYPC, evidence was presented that stopped the NDIS package for the child from being reduced. This enabled the child to continue to live with and be supported by the parents with community supports in place.

Visits to facilities providing services to adults and older persons with complex needs/disability

To facilitate the provision of timely and responsive advocacy, the PACYPC continued to visit the Brian Hennessey Rehabilitation Centre and the Older Persons Mental Health Service monthly, and on request.

The PACYPC also instigated a schedule of visits to non-government and private organisations providing services to children, young people and adults with complex disability support needs. This raised the profile of the PACYPC among service providers in disability and other sectors and helped establish improved communication and referral pathways with those organisations. It also encouraged people residing in or accessing those services to approach the PACYPC directly with concerns.

Management Assessment Panel coordination

The PACYPC coordinates the ACT MAP, which is a voluntary service that fosters the provision of services and facilities for people with complex and intensive support needs by coordinating case management and other service responses by relevant lead agencies.

MAP is a service of last resort that exists to facilitate the coordination of case planning and service provision for people whose complex service needs are poorly coordinated or not adequately met. MAP accepts referrals for children, young people and adults with disability. Referrals are premised on the existence of complex and challenging service provision needs and presenting risks for the person. Following referral assessments, MAP identifies service needs, negotiates service provision and ensures it is coordinated, and convenes panels with key stakeholders to resolve issues of concern when required.

Intervention through MAP has the potential to generate significantly improved outcomes for people who, otherwise, would continue to 'fall through the cracks' due to poor or inadequate coordination of necessary supports.

Further to the review of MAP in 2015-2016, the PACYPC actively worked to raise awareness of the MAP process in 2016-2017, including by highlighting the potential benefits for individuals with complex needs where service coordination was inadequate.

During 2017-2018, MAP received substantially more referrals than in the previous reporting period. Six clients were referred and 29 conferences convened this reporting period compared with four referrals and seven panels in 2016-2017.

Significantly, in 2017-2018, there were 148 occasions of advocacy relating to MAP client issues, compared to 37 occasions of advocacy in 2016-2017. Advocacy related to the lack of suitable accommodation, poor or inadequate service/support coordination and difficulties interacting with and negotiating service systems. Most individuals accessing MAP in this reporting period were NDIS participants, and one participant was an older person with an ACAT package of care.



Advocacy for person with mobility issues

Through MAP intervention, an individual with mobility issues who was unable to self-transfer had a tracking hoist installed in her home. This meant that the individual could be transferred with one staff member as opposed to requiring two staff members. This enabled the individual's NDIS budget to stretch further and the person's dignity was supported by having only one staff member assisting her with personal daily living support requirements.

ACT Care Coordinator

The ACT Care Coordinator is responsible for coordinating the provision of treatment, care or support for a person with a mental disorder for whom a Community Care Order (CCO) applies. The ACT Care Coordinator is also responsible for coordinating the provision of treatment, care or support for a person for whom a Forensic Community Care Order (FCCO) is in force. CCOs and FCCOs are made by the ACT Civil and Administrative Tribunal (ACAT).

CCOs/FCCOs are made for people for whom guardianship is not sufficient and who have disturbances of behaviour associated with other disorders of the mind, such as:

- dementia
- intellectual disability
- acquired brain injury
- personality disorders
- degenerative neurological disorders.

The majority of clients with CCOs have their care needs met by either mainstream services and/or the NDIS. The provision of care and support has, over time, changed in response to the introduction of NDIS and the changing role of Disability ACT.

The PACYPC's Senior Advocate, Complex Needs/Disability acts as Executive Officer to the ACT Care Coordinator, a statutory appointment of the Minister for Health under Section 204(1) of the *Mental Health Act 2015*. As such, the PACYPC provides administrative support to the Care Coordinator, amounting to approximately 20% of the Senior Advocate's workload.

In 2017-2018, the Senior Advocate performed 148 administrative functions for the ACT Care Coordinator related to CCOs, compared to 140 administrative functions in 2016-2017.

In 2017-2018, seven people were subject to a CCO (two men and five women). There were five people for whom new CCOs were made in the reporting period. For the seven people subject to CCOs, one was referred by the courts, two were referred by adult mental health services and the remaining four people were referred by the Older Persons Mental Health Team.

Of those referred, one had an intellectual disability and complex and challenging behaviours, one had a neurological condition, one had an eating disorder and four people had dementia.

No FCCOs were made during this reporting period.

During the reporting period, the ACT Care Coordinator commissioned an independent review into the structure, operations and resourcing of the ACT Care Coordinator functions. The PACYPC contributed to this process and anticipates receiving further advice about the outcomes of this review in 2018-2019.

Family/personal violence

The *Family Violence Act 2016* and *Personal Violence Act 2016* allows young people and people with impaired decision-making to access support from by PACYPC in court proceedings. Under the legislation, the Court may notify the PACYPC about such a matter.

In 2017-2018, the PACYPC was notified about matters relating to 41 individuals. Of these, 11 were children or young people, and 30 were adults identified as having either a mental illness or disability.

This year, the PACYPC met with officers of the Magistrates Court to target and streamline referral processes. A smaller number of referrals was received by the PACYPC compared with previous years, possibly relating to legislative changes and the court having the discretion of notifying the PACYPC. However, a higher percentage of the referrals received by the PACYPC (48%) required support and advocacy.

The PACYPC reviewed documents sent by the Court and identified if there was anyone involved in the person's life who could represent or assist them, such as a parent, litigation guardian or guardian. For children and young people, parents usually fulfil this role. The PACYPC contacted parents and, where needed, provided information and support to them. Only three young people were provided direct advocacy by the PACYPC.

For adults, the PACYPC considered whether individual advocacy would assist the person to progress the matter or, in limited circumstances, whether an application for a guardian/litigation guardian would be appropriate. In making these enquiries, the PACYPC sought to identify the least restrictive option that would uphold the person's rights. In 2017-2018, 61% of adults referred from the Court were provided advocacy assistance, including by the PACYPC attending Court conferences.

In supporting improved outcomes for people experiencing vulnerability, the PACYPC attends the Family Violence Inter-Agency Meeting. This provides an opportunity to work with other agencies in legal and judicial agencies to improve responses to violence experienced by vulnerable groups.

The PACYPC also co-led the preparation of the Commission's submission to the Standing Committee on Justice and Community Safety Injury into Domestic and Family Violence – Policy Approaches and Responses. In addition, the PACYPC was instrumental in the development of the extraordinary meeting of the Domestic Violence Prevention Council (DVPC) and promoting system change towards a service response in the ACT that understands children and young people as victims of domestic and family violence in their own right. This systemic advocacy will continue in the next reporting period.

B.3 Scrutiny

During 2017-2018, there was one recommendation from the ACT Legislative Assembly Standing Committee on Justice and Community Safety—Report on Annual and Financial Reports 2016-2017—that was relevant to the Commission.⁷

Table 28: Recommendation 4, Standing Committee on Justice and Community Safety, Report on Annual and Financial Reports 2016-2017

Summary of recommendation	Action	Status
Recommendation 4 4.23 The Committee recommends that the Minister for Disability, Children and Youth should inform the ACT Legislative Assembly when the operational communications protocol between the Community Services Directorate and the Human Rights Commission has been finalised. This should include: (i) information as to the agreed timeliness of the provision of, and quality of information contained within, annual review reports (pursuant to sections 497 and 495); and (ii) notification reports (pursuant to section 507) of the <i>Children and Young People Act 2008</i>.	Agreed. It has been agreed in the protocol that CYPs will endeavour to provide Annual Review Reports within three (3) months after the end of the review period. Further, an agreed process for s507 reports has been established including the provision of a fortnightly list of identified s507 cases, and the provision of both the CCR and the appraisal outcome report at the time of advising the Public Advocate that an appraisal has been completed.	The communications protocol between the Commission (Public Advocate and Children and Young People Commissioner) and CYPs has been finalised, fully endorsed and is being implemented.

In the reporting period, progress has also been made in implementing the following recommendations from the same report.⁸

Table 29: Recommendation 2 and 5, Standing Committee on Justice and Community Safety, Report on Annual and Financial Reports 2016-2017

Summary of recommendation	Action	Status
Recommendation 2 The Committee recommends that the ACT Education Directorate and the ACT Human Rights Commission, to the extent that work is not already taking place, coordinate their respective work to implement any relevant recommendations or responses to findings from the Royal Commission into Institutional Responses to Child Sexual Abuse.	Agreed in principle. The Commission and the Education Directorate, along with other ACT Directorates and Agencies, met regularly during the reporting period to coordinate their respective work in relation to findings from the Royal Commission into Institutional Responses to Child Sexual Abuse. Such work has included input into development of the ACT Government's response to the Commission's Recommendations, released in June, and work to deliver the Commonwealth Redress Scheme for Survivors of Institutional Child Sexual Abuse	Ongoing
Recommendation 5 The Committee recommends that the ACT Government, through the Victims of Crime Commissioner, devise a method for resolution Of family violence for those people who have a preference not to pursue such matters through mechanisms provided by the Courts or police.	The ACT Government has progressed this measure through work to develop the ACT Family Safety Hub, which has occurred in consultation with the Victims of Crime Commissioner.	Ongoing

⁷ https://www.parliament.act.gov.au/__data/assets/pdf_file/0007/1180555/9th-JCS-02-Annual-Report-2016-17.pdf

⁸ *ibid*

B.4 Risk management

The Commission's risk register is under review.

The Commission's business continuity plan was endorsed on 28 June 2017 and satisfied the requirements of the ACT Audit Office.

B.5 Internal audit

The JACS Directorate's internal audit policies and procedures apply to the Commission. See the JACS Annual Report 2017-2018.

B.6 Fraud Prevention

There were no reports or allegations of fraud directed at the Commission in 2017-2018.

The JACS Directorate's fraud control policies and procedures applied to the Commission. Compliance is detailed in JACS Annual Report 2017-2018.

B.7 Work health and safety

The Commission was not issued with any improvement, prohibition or non-disturbance notices under Part 10 of the *Work Safety Act 2011*.

During the reporting period the Commission operated according to JACS work health and safety (WHS) policies and procedures.

Workstation assessments were completed for 23 staff.

The Commission monitored and improved WHS by including it as a standing agenda item at monthly Commission and staff meetings, and reviewed identified and potential hazards with work groups.

B.8 Human resources management

ACT Shared Services and JACS' People and Workplace Strategy Branch assisted the Commission with recruitment in 2017-2018. The Commission independently manages staff retention, support and training.

In 2017-2018 the Commission employed 51 staff, the overwhelming majority of them female.

Table 30: FTE headcount by gender

Classification Group	Female	Male	Total
FTE by Gender	41.1	6.2	47.3
Headcount by Gender	44	7	51
% of Workforce	86.3%	13.7%	100.0%

Table 31: Headcount by employment classification and gender

Classification Group	Female	Male	Total
Administrative Officers	11	3	14
Health Professional Officers	8	1	9
Legal Officers	2	0	2
Senior Officers	19	2	21
Statutory Office Holders	4	1	5
Total	44	7	51

Table 32: Headcount by employment category and gender

Employment Category	Female	Male	Total
Casual	1	1	2
Permanent Full-time	24	5	29
Permanent Part-time	8	0	8
Temporary Full-time	10	1	11
Temporary Part-time	1	0	1
Total	44	7	51

Table 33: Headcount by age and gender

Age Group	Female	Male	Total
Under 25	0	0	0
25-34	8	3	11
35-44	9	1	10
45-54	15	0	15
55 and over	12	3	15
Total	44	7	51

Table 34: Headcount by diversity group

Classification Group	Headcount	% of total staff
Aboriginal and/or Torres Strait Islander	1	2.0%
Culturally & Linguistically Diverse	3	5.9%
People with a disability	2	3.9%

Table 35: Headcount by years of service and gender

Gender	Female	Male	Total
Average years of service	5.6	9.6	6.1

Table 36: Recruitment and separation rates by classification

Classification group	Recruitment rate	Separation rate
Administrative Officers	22.7%	11.4%
Health Professional Officers	0.0%	20.2%
Legal Officers	0.0%	0.0%
Senior Officers	10.8%	16.2%
Total	10.5%	15.7%

Learning and development

Throughout the year, Commissioners and staff took part in a wide range of learning development and training programs relevant to the ACT Government's output areas for the Commission and to its Strategic Plan.

All learning and development programs were delivered by registered training organisations.

Table 37: Learning and development 2017-2018

Program	Provider	Attendees	Cost per head
2017 Australian Women's Leadership Symposium	DVCS	1	\$0
2017 Menslink Business Breakfast	Menslink	2	\$0
2017 NAIDOC Ball	ACT NAIDOC	3	\$0
2018 National Aboriginal Wellbeing Conference	Spirit Dreaming	1	\$0
AASW 70th Anniversary	Legal Aid	1	\$0
Aboriginal Cultural Awareness Training	CIT Yurauna Centre	3	\$350
Aboriginal Cultural Awareness Training	ACTCOSS	4	\$350
Anti-Discrimination Law Study	University of Melbourne	2	\$150
Building resilience for peak performance	CIT	2	\$0
Caught in the Act: Navigating ACT Legislation	Life Unlimited	3	\$0
Child Inclusive Practice	JACS	1	\$0
CHILDHOOD Trauma Conference	Family Relationship Services Australia	1	\$0

Program	Provider	Attendees	Cost per head
Coaching and Mentoring Skills for Managers and Leaders	ICMS PTY	1	\$1,295
Creating Child safe Organisations	Fresh Coaching & Training	1	\$0
Custodial Health Conference	Criterion Conferences	2	\$0
Decision making skills	Justice Health FMH Network	1	\$0
DV Alert	JACS	1	\$0
DVCS Training	Core Solution at Lifeline	1	\$0
Essentials for Volunteer Managers Workshop	Domestic Violence Crisis Services	2	\$165
Financial Management	Volunteering ACT	2	\$250
Fraud and Ethics Awareness	JACS	1	\$0
Health and Safety Representative Refresher	Exploring best Practice for treatment	1	\$25
In Search of Safety - Community Conversations	CIT	1	\$0
International Mental health Conference	Learning Option	2	\$0
International Women's Day Breakfast - Women in Leadership	Parasol	1	\$0
Introduction to Government Procurement	Australian Red Cross	1	\$0
JACS Induction	ANZMH Association	1	\$0
Justice Connections 5	IPAA ACT	2	\$0
Leading Planning managing Change	Goods and Services Procurement	3	\$0
Making the most of supervision	JACS	1	\$0
Meeting Secretariat Skills	University of Canberra	1	\$0
Mental Health Awareness	Interactive Consulting Group	1	\$0
Mental Health in Crisis	AASW	2	\$0
National CLCS Conference	Cliftons Training	2	\$0
National NDIS Mental Health Conference	MH Community Coalition	1	\$100
Newcastle as a Restorative Justice City Symposium	CIT	1	\$0
Ngunnawal language session	Conference online National CLCS	1	\$1,891

Program	Provider	Attendees	Cost per head
Pride in Practice Conference	Community Mental Health Australia	1	\$595
Project Management and Governance: Overview for Executives/Sponsors	University of Newcastle	1	\$0
Recruitment and Staff Selection	AIATSIS and Thunderstone Aboriginal Cultural and Land Management Services	1	\$0
RED Framework & Bullying Prevention and Management Training	Pride in Diversity	1	\$0
Respect Equity and Diversity	Aravena Global Solutions	1	\$0
Strangulation Prevention and Intervention Course	Interaction Consulting	3	\$0
The Annual Castan Centre for Human Rights Law Conference	Interaction Consulting Group	2	\$0
The New Supervisor	Interactive Consulting	2	\$0
Trauma Focussed Therapy Training	FAMSACA	3	\$0
Trauma Informed Training for Workers	Monash University	2	\$0
Vicarious Trauma Workshop	CIT	2	\$0
Victims of Crime Conference	Australian Childhood Foundation	1	\$0
Victims of Crime Conference 2017	Bouverie Centre	15	\$0
Women's Day Breakfast	ANU	1	\$0
Writing for Government	Victim Assist QLD	1	\$0

B.9 Ecologically sustainable development

The Commission's new office includes permanent recycling and organic waste management disposal units and motion sensitive lighting to reduce energy use.

The Commission actively encouraged staff to only print paper copies when necessary, use recycled paper and switch off computers and other electrical devices when not needed.

The Commission is unable to report against energy consumption, transport fuel and water use, or waste and greenhouse emissions generation.

SECTION C: FINANCIAL MANAGEMENT REPORTING

C.1 Financial management analysis

See C.2

C.2 Financial statements

In line with the Commission's Governance and Corporate Support Protocol with JACS its financial reporting is included in the JACS Annual Report 2017-2018.

C.3 Capital works

The Commission did not carry out any capital works activities or programs in 2017–2018.

C.4 Asset management

The JACS asset management strategies applied to the Commission and are detailed in the JACS Annual Report 2017-2018.

C.5 Government contracting

The Commission did not enter into any contracts with suppliers of services, goods or works valued at more than \$25,000 during the reporting period.

Procurement selection and management processes for all Commission contracts complied with the ACT *Government Procurement Act 2001*, the ACT Government Procurement Regulation 2007 and subordinate guidelines and circulars throughout 2017–2018.

C.6 Statement of performance

The Commission reports against accountability indicators in Output 1.5 of JACS portfolio report.

Output Class 1 justice services

Output 1.5 Protection of Rights

Provision of advocacy, complaints-handling, advice, community awareness raising and other services in connection with the promotion and protection of rights especially for vulnerable members of society, through services provided by the ACT Human Rights Commission, including the Public Advocate of the ACT and Victim Support ACT. This output also includes services provided by the Privacy Commissioner.

Table 38: Protection of rights

Output Description	2017-2018 Original Target	2017-2018 Actual	YTD Variance %	Note
Total Cost (\$'000)	8,995	8,285	(8%)	
Controlled Recurrent Payments (\$'000)	8,167	8,220	1%	
Accountability indicators				
ACT Human Rights Commission				
a) High level of client satisfaction with Human Rights Commission complaints process:				
• Percentage of survey respondents who consider the process fair, accessible and understandable ^a	75%	81%	8%	
• Percentage of complaints concluded within Commission standards	75%	86%	15%	1
b) High level of community education, information and advice in relation to human rights and (i) services for children and young people, (ii) disability services, (iii) discrimination, (iv) health services, and (v) services for older people:				
• Number of community engagement activities undertaken by the Commission	30	67	123%	2
Public Advocate of the ACT				
c) The Public Advocate of the ACT's actions towards achieving a caring community where the rights and interests of vulnerable people are protected:				
• Proportion of client survey respondents for whom advocacy services are provided by the Public Advocate of the ACT where a high level of satisfaction is reported. ^b	75%	83%	11%	3
Public Advocacy				
c) Individuals, excluding guardianship clients, brought to the attention of the Public Advocate:				
Proportion of individuals brought to the attention of the Public Advocate for whom direct advocacy is provided.	25%	30%	20%	4
Percentage for clients referred to the Public Advocate for whom a review of the documentation was undertaken ^c	75%	82%	9%	

Output Description	2017-2018 Original Target	2017-2018 Actual	YTD Variance %	Note
Victim Support ACT				
d) Percentage of referrals to Victim Support ACT or the Victims of Crime Commissioner - actioned within five working days^d	95%	92%	(3%)	

Accountability indicators in the above table should be read in conjunction with the accompanying notes.

Accountability indicators were examined by the ACT Audit Office in accordance with the *Financial Management Act 1996*. The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the Financial Management (Statement of Performance Scrutiny) Guidelines 2017.

Notes:

- a) An evaluation form is sent out to both the complainant and the respondent with a reply-paid envelope each time a complaint is closed. In 2017-2018, 38 Commission evaluation forms were completed and returned. Three questions included in the Evaluation Form allow clients to provide feedback on whether the Commission's process was fair, accessible and understandable.
- b) The Public Advocate surveys stakeholders using the online tool Survey Monkey. The anonymity provided by the online process allows respondents to provide clearer feedback about the services accessed, and consistently results in more responses than previous survey methodologies.
- c) Documentation refers primarily to compliance documents received from Mental Health services and the Office for Children, Youth and Family Support; and reports provided with individuals requests or referrals for advocacy.
- d) Actioned refers to all initial contacts taken to directly communicate with people who are referred to the services. These include telephone calls, emails and written correspondences.

Explanation of Material Variances ($\geq \pm 10\%$)

- 1 The higher than target outcome is mainly due to increased attention to early resolution and ongoing review and streamlining of handling processes.
- 2 The higher than target outcome is mainly due to a high level of activity conducted by the Human Rights Commission during the year, engaging with the community at a wide range of functions that enable the Commission to reach its client base effectively.
- 3 The higher than target outcome was attributed to stakeholder's high level of satisfaction with the Public Advocate's services.
- 4 The higher than target outcome is primarily due to the Public Advocate continuing to actively respond to matters brought to its attention by members of the public, in addition to reviewing statutory compliance documents, to ensure adequate monitoring of cases and identify clients who may require direct advocacy to protect their rights and facilitate effective outcomes.

SECTION N: COMMUNITY ENGAGEMENT AND SUPPORT

Strategic priority 4: increasing community engagement

Human Rights Commissioner

UNDRIP anniversary

For information on an UNDRIP anniversary held jointly with the ATSIEB, see page 19.

Human Rights Day event

The Commission and Amnesty International co-hosted a community forum entitled *Marriage Equality: Where to Now?* at the Legislative Assembly on 8 December 2017 to mark International Human Rights Day. Four eminent ACT speakers provided their perspective on the campaign for marriage equality and what will follow the ground-breaking changes to the federal *Marriage Act 1961* (Cth) introduced in late 2017. The forum was chaired by Dr Watchirs and the speakers were:

- ACT Attorney-General Gordon Ramsay
- Anne-Marie Delahunt, Chair of the ACT LGBTIQ Ministerial Advisory Council
- Katrina Fanning, Director of Coolamon Advisers
- Bede Carmody, community activist at Amnesty International.

Ratification of the United Nations Optional Protocol to the Convention Against Torture Roundtable Discussion

The Commission hosted a roundtable discussion on Australia's ratification of the United Nations Optional Protocol on the Convention Against Torture, at the Commission's office on 12 December 2017. Dr Watchirs chaired and Corrections Minister Shane Rattenbury formally opened the event. There were three speakers:

- Ed Santow, Australian Human Rights Commissioner
- Audrey Olivier-Muralt, Director of Latin American Office, Association for the Prevention of Torture
- Michael White, CEO Inclusive New Zealand (and former senior legal advisor at NZ Human Rights Commission).

Human rights training

In addition to the human rights training highlighted elsewhere in this report (See Section B.2 Performance), the Commission provided *Introduction to the Human Rights Act* training sessions to the Canberra Institute of Technology leadership network on 22 November 2017; and to newly recruited youth workers at Bimberi on 17 April 2018 and 22 May 2018.

We also delivered tailored training sessions on the *HR Act* to:

- ACT Policing executive and policy staff on 7 and 10 August 2017
- ACT Corrections on 7 and 12 December 2017
- the ACT Ombudsman on 7 February 2018.

Recognising the importance of providing presentations and training on human rights to the broader community, the Commission also delivered sessions to students and other community members, including:

- A presentation on the HR Act for law students at Canberra University on 11 April 2018
- A presentation and collaborative discussion about the HR Act and *Discrimination Act* with patrons of the Australian Red Cross Road House on 30 May 2018.

Commission staff, and the coordinator of the Respecting Culture: Aboriginal and Torres Strait Islander Cultural Rights in the Human Rights Act project, conducted a range of training sessions on cultural rights for stakeholders. (For more information, see section on Working with the Aboriginal and Torres Strait Islander community.)

Grants and Sponsorships 2017–2018

Table 39: Grants and sponsorship

Date	Name	Grant purpose	Recipient	Amount
20 February 2018	ACT Human Rights Law Prize	Annual prize awarded to the student achieving the highest mark in human rights law subject.	Australian National University	\$200
16 September 2017	Sponsorship by the Commission	Sponsorship towards Africa-themed soccer tournament, <i>A stand against Family Violence</i> .	Celebration of African Australians Inc	\$500



Commission President, Helen Watchirs (left) and Social Justice Commissioner, June Oscar, AO, at the UNDRIP anniversary film screening, September 2017.

Discrimination, Health Services, Disability and Community Services Commissioner

The Commission continued to raise awareness about the Discrimination Act by repeating its popular *Opening up Equality in the ACT: The New Discrimination Grounds and Beyond* workshop on 18 July 2017. An additional two workshops on this same topic were offered through the ACT Council of Social Service training calendar at their premises in Weston on 29 August 2017 and on 28 March 2018. Topics included the expanded discrimination and vilification grounds, sexual harassment, victimisation, and the complaint process.

Discrimination and harassment training was provided to a community sector organisation on 28 September 2017.

Harassment, bullying and discrimination workshops were also provided to a private sector organisation on 28 February and 21 March 2018.

Workplace contact officer training was provided for a private sector organisation on 26 October 2017.

A joint information session on Human Rights and the Discrimination Act framework was provided to service users at a drop in centre on 30 May 2018.

The Commission provided tailored training sessions about rights and responsibilities under the *Health Records (Privacy and Access) Act 2007* for health administration staff. The workshops addressed a range of concerns relevant for handling personal health information.

In June 2018, the Commission organised two information sessions with staff and families at the Tuggeranong Child and Family Centre to promote our services, including our complaint processes.

The Commissioner's team delivered a presentation on LGBTIQ rights, the role of the Commission, and our discrimination framework to an Australia-Vietnam Human Rights Dialogue on 8 August 2017.

In September 2017, the Commissioner gave a presentation to 300 members from United Voice in relation to discrimination, rights and the commission's complaint process.

On 8 August 2017, Commission conciliators gave a presentation to the Aged Care Complaints Commission's staff to share knowledge of our conciliation practices and outcomes.

Community Stalls

The Commission attended the SpringOUT fair in October 2017, handing out rainbow themed Commission merchandise and information about our services for the Canberra LGBTIQ community.

In Seniors Week 2018, the Commission shared a stall at the Seniors Expo with the ACT Ombudsman.

In June 2018, the Commission set up a stall at the roller derby bout in the Southern Cross Stadium in Tuggeranong.

Victims of Crime Commissioner

Victim Support ACT volunteers worked alongside Commission staff at the 2017 SpringOUT fair and the 2018 National Multicultural Festival, handing out information about Victim Support ACT, the volunteer program and the Commission.

Table 40: Volunteer participation last quarter of 2017-2018

Measure	2017-2018
Hours of external training completed *	79
Hours of in-house training completed **	19.5
Hours of quarterly meeting and event attendance	37
Community Engagement Hours	8
Total Hours of Participation	143.5

Notes:

* Lifeline DV-Alert training, Introductory trauma workshop and e-safety training

** Information sessions: ACT Victims Register, Court Orientation and personal protection orders

Table 41: Volunteer contribution 2017-2018

Measure	2017-2018
Total hours of volunteer support and assistance provided	518.5 hours
Average Volunteer hours per week	9.9 hours
Estimated value of Volunteer contribution*	\$26,044

Notes:

* Based on hourly rate for mid-range ASO4 staff member including admin and overhead costs.



President, Helen Watchirs (back), talking to a client, with victim support team member, Rozi Celica (front left), and volunteers Susan Thomson and Emilia Currey at the 2018 National Multicultural Festival.

Public Advocate and Children and Young People Commissioner

Engagement with children and young people

Approximately one quarter of all Canberrans are aged under 18 so the importance of hearing what children and young people have to say should not be under-estimated. Equally, this is why it is important to provide detail about these consultations and not trivialise them by simply listing them as part of the broader suite of consultation and engagement activities undertaken by the Commission.

Something we emphasise when engaging with children and young people is that they are the experts in their own lives. However, it is important to recognise that meaningful engagement is more than just asking children and young people what they think about an idea that we, as adults, have come up with. Children and young people should be recognised as capable contributors and impressive innovators, noting that we will only reap the benefits of their expertise if we value them and take the time to really hear what they are telling us.

The words and actions of children and young people are only part of this picture. We need to understand the message behind the words because their messages are more often than not nuanced by the unique perspectives they bring by virtue of being children and young people who see and experience the world differently to the way we do as adults. If we, as adults, fail to take an inquisitive active listener role, we may not fully understand what children and young people are telling us.

Investing in processes that harness the expertise of children and young people in being children and young people right here, right now⁹, will help us make sure that the Canberra of tomorrow is both child-safe and child-friendly, a place where children and young people trust that they will be taken seriously about the things that matter.

Consultations with children and young people

Life transitions: what children say about change

Throughout 2017, the PACYPC consulted with nearly 120 ACT primary school children, listening to their views about change, the life changes they see as significant and the supports that help them most when life is changing. The report of the consultation was released in July 2018¹⁰, including checklists for service providers and other agencies to audit their existing transition support resources and to guide the development of new resources and services. A child-friendly version of the report, written for and distributed to the children and young people who participated in the consultation, was also released¹¹.

For children, the most instrumental supports during times of change were their friends, time out to do things that they like, and their parents. Children had many practical ideas about how adults can better support them during times of transition, including getting involved in the activities and interests that children have, getting to really know each child and their context, and allowing plenty of time. Mutual respect was a dominant theme in what children are seeking from adults, including language and tone, actions, outcomes, capacities and abilities. As one child said: "We have 'equal thoughts'; don't just think that adults have the big thoughts. Kids have big thoughts too."

When children experience transitions successfully, they are more capable and resilient at managing transitions later in life. The consultation provided a wealth of insight into how children can best be supported to navigate life changes.

Consulting with children and young people in residential care

The principles of empowerment, purposeful engagement and inclusiveness are vital ingredients in creating a resilient and supportive care system for children and young people who, for various reasons, are unable to live at home with their family. To ensure the operations of the PACYPC are informed by those we represent, the PACYPC sought to gain an understanding of the way that children and young people themselves view their experience of residential care in the ACT. To this end, the PACYPC, together with the official visitors, undertook a consultation with children and young people in residential care in 2017-2018. The consultation involved 21 children and young people.

The outcomes report is under development and will present the feedback from children and young people with a view to identifying potential areas for improvement to residential care. The consultation explored topics such as contact with family and friends, transition support and having a voice in their care arrangements and other life decisions. The PACYPC will draw directly from the views of children and young people to develop recommendations.

9 *Right Here Right Now*, 2014, an engagement activity of the ACT Children and Young People Commissioner, <http://hrc.act.gov.au/childrenyoungpeople/rightthere-right-now/>

10 <http://hrc.act.gov.au/wp-content/uploads/2018/08/Life-transitions-final-report-2.pdf>

11 <http://hrc.act.gov.au/wp-content/uploads/2018/08/Transitions-report-back-to-participants.pdf>

Consideration of these recommendations provides the opportunity to take a child-informed approach to enhancing service delivery systems. It is hoped that, given the ACT has a relatively small number of children and young people living in residential care compared to other jurisdictions, these considerations will pave the way for systems change to enhance supports and the overall residential care experience for children and young people.

Engagements supporting children and young people

Children and Young People Commissioner: celebrating 10 years

2017 marked the 10th anniversary of the establishment of a Children and Young People Commissioner role in the ACT. In Children's Week, the PACYPC hosted a birthday party at Woden Youth Centre, reflecting on the first 10 years of the CYPC and looking forward to the next 10 years. The Commissioner was joined by the Minister for Children, Youth and Families, Rachel Stephen-Smith and children from local schools who were born in 2007, making them the same age as the CYPC.

Participants imagined the future, in craft activities with the following themes:

- In 10 years from now, I will be...
- In 10 years, I hope Canberra will be a place that...
- What should the CYPC do in the next 10 years?

Careers Xpo

The Commission again participated in the ACT Careers Xpo in 2017. This event was an opportunity to disseminate information about human rights and the services of the Commission to young people; talk with young people about career pathways into a human rights organisation; and seek the views of young Canberrans.



Children and Young People Commissioner, Jodie Griffiths-Cook with the 1000th student who completed a survey at the Commission stall at the Careers Xpo.

Thousands of young people stopped to chat, and 1000 completed a short survey about their thoughts on the future. Some of the key issues for young people were:

- earning enough money
- having the right skills and qualifications
- working out what they want to do
- and uncertainty about finding a job.

The young people who stopped at the stall contributed to a community artwork celebrating young people's views of the future. They touched on concepts including freedom, hard work, equality, possibility, happiness and success. Their views of the future were as diverse and inspirational as the young people themselves.

Children's Week Awards

In Children's Week each year, the PACYPC presents the Children and Young People Commissioner's Award to a child or young person whose contribution to their peers and/or community reflects strong social justice values. With many deserving nominees, the decision is always a difficult one. In 2017, the PACYPC found it impossible to limit her award to just one person, presenting her award to Elijah Arranz, Lola Arranz, Ben Mitchell, Charlie Mellick, Marley Thomas and Joe Bishop, a group of young people who together epitomise the values of faith, bravery, compassion and selflessness in the way they responded to adversity.



Children and Young People Commissioner, Jodie Griffiths-Cook (back) with Elijah Arranz (centre front) and other winners of the Children and Young People Commissioner's Award.

National Museum of Australia capacity building

In 2017, the PACYPC responded to a request from the National Museum of Australia (NMA) to hold a capacity building workshop on safe and meaningful consultation with children and young people. The request was driven from NMA's desire to consult with children directly in its Discovery Centre Design project, in order to build a facility that will be truly engaging and responsive for the target audience. The workshop was extremely well received, and NMA staff went on to consult with children in shaping the project. The PACYPC remains connected to the project as a member of the Expert Advisory Panel.

Domestic Violence Prevention Council Extra-Ordinary Meeting

The PACYPC presented an opening address at the Domestic Violence Prevention Council Extra-Ordinary Meeting focussed on understanding and responding to the unique experience of children and young people who are exposed or subjected to domestic and family violence. The PACYPC presented comments from children and young people as well as reflections from young adults with lived experience of domestic and family violence as children/young people. She emphasised the importance of recognising children and young people in these situations as also being primary victims and highlighted the need for supports that are appropriately tailored to the individual needs of each child or young person.

Other engagements supporting children and young people

The PACYPC also organised and participated in a range of other activities and events for children and young people including:

- CREATE Come and Play Sibling Connection Day – hosting tower building and photo frame making activities
- CREATE and PACYPC delivered joint training to ACT Together on the importance of child and young people participation
- Participating in the Wreck Bay Aboriginal community's NAIDOC Week Carnival and hosting a photo frame making activity
- Presenting the Gugan Gulwan NAIDOC Youth Education Award for 2017
- Engaging with young people at the Murrumbidgee Education and Training Centre at Bimberi for their end-of-term assemblies in which their achievements throughout the term are recognised
- Participating in the Relay for Life with young people at Bimberi
- Giving a speech as part of the ACT Neighbour Day launch for 2018
- Presenting the 2017 Girl Guide Baden Powell Awards
- Presenting as part of the Reportable Conduct Scheme community briefing
- Participating in panel discussions as part of the ACT Government's community briefing in response to the recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*.

Other PACYPC Community Engagements

The PACYPC also engaged in a variety of community engagement events for people with disability and/or mental health concerns including:

- Providing staff training information sessions at the AMHU and Dhulwa secure mental health facility
- Contributing to the Mental Health Consumers Network's development of 'Your Rights Your Way' resources to assist people with mental illness in advance planning
- Providing a community engagement session with students in the Advocacy for Change course at Canberra University. This guest lecture discussed the individual and systemic advocacy roles of the PACYPC.

Other community initiatives

Young Thinker in Residence

In response to a proactive approach by a young person who raised a particular area of systemic concern with the PACYPC, the PACYPC commenced a trial of a Young Thinker in Residence program in 2017-2018.

The Young Thinker in Residence trial is providing an opportunity for a young person to spend up to ten hours per week in the PACYPC office thinking about a social or political topic of their choosing. The PACYPC provides support to guide the evolution of the young person's thinking and action in respect of their chosen topic.

The inaugural Young Thinker began working with the PACYPC in June 2018 on a project through which she hopes to generate improved understanding about what young people identify they need to better respond to concerns about alcohol and drug misuse by their peers. In 2017-2018, the PACYPC sponsored two young people to attend the CREATE Conference in Sydney, and one young person to participate in the 2018 United Nations Youth National Conference in Adelaide.

Sponsorship

In 2017-2018, the PACYPC sponsored two young people to attend the CREATE Conference in Sydney, and one young person to participate in the 2018 United Nations Youth National Conference in Adelaide.

SECTION O: JUSTICE AND COMMUNITY SAFETY

O.1 Bushfire Management

The Commission did not own or manage Territory land during the reporting period.

O.2 Freedom of Information

During 2017-2018, the *Freedom of Information Act 1989* was repealed and the *Freedom of Information Act 2016* commenced on 1 January 2018. The Commission received and responded to four requests under the FOI Act 1989 as follows:

- The Commission provided full access to information sought in one request, which was processed within 30 days.
- The Commission granted partial access to documents in relation to two other requests. Both requests were processed within 30 days.
- A fourth request required a manual search of the Commission's records and was finalised within 60 days. No documents were found to fall within the scope of the request.

We did not charge any fees in relation to any of these requests.

O.3 Human Rights

Section 15 of the HRC Act requires the Commission to act in accordance with human rights when exercising its functions, and a commitment to human rights is fundamental to all aspects of the Commission's work.

Additionally, as a public authority under section 40B of the HR Act, the Commission has obligations to act consistently with human rights and to give proper consideration to human rights when making decisions.

Throughout the reporting period, the Commission continued to meet these obligations in a number of ways. In particular, the Commission:

- continued to follow a number of rights based principles when responding to enquiries and complaints, in particular principles of natural justice; impartiality; procedural fairness; confidentiality; principles of evidence and transparency
- took into account relevant human rights in complaints handling
- provided training to ACT Government agencies on their obligations regarding human rights (see Section N for details)
- gave speeches and presentations on various aspects of human rights to community groups and forums (see Appendix A for details)
- discussed a range of human rights issues with agencies as part of the Commission's community education and engagement program
- highlighted human rights issues in proposed ACT Government policies and legislation through: ACT Government consultation processes; ACT Legislative Assembly inquiries; and responding to draft cabinet submissions and bills (see pages 22-24 for details)
- responded to requests from Ministers and MLAs for human rights advice on specific topics.

New Commission staff were provided with copies of relevant internal policies, procedures and publications, including those relevant to the HR Act.



UN Special Rapporteur on the Rights of People with Disabilities, Ms Catalina Devandas Aguilar (left) during her visit to Canberra in February 2018, with Discrimination, Health Services, Disability and Community Services Commissioner, Karen Toohey.

O.4 Legal Services Directions

During the reporting period, the Commission complied with all legal services directions issued under section 11 of the *Law Officers Act 2011*.

SECTION P: PUBLIC SECTOR STANDARDS AND WORKFORCE PROFILE

P.1 Culture and Behaviour

The Commission's Strategic Plan 2017-2020 expands on the ACT Government Code of Conduct values with regard to respect, integrity, innovation and collaboration, including accessibility and independence to reflect its purpose and status as an independent statutory body.



Commission staff at the SpringOUT fair in October 2017, from (left) Caitlin Stamford, Brunella Molinaro and Jenny Acton.

P.2 Public Interest Disclosure

The Commission did not receive any requests for public interest disclosures during 2017–2018.

P.3 Workforce Profile

See B.8 Human resources.

SECTION Q: TERRITORY RECORDS

Q.1 Territory Records

The Commissions uses the JACSD's Records Management Program. A senior officer within the Commission retained responsibility for records management in 2017–2018, as required by Territory Records Office standards. The Corporate Support Team maintained overall responsibility for the records management program and all staff received training on records management on induction and throughout the year as required. Commission policy and procedures include specific arrangements to preserve records containing information that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage.

APPENDIX A: COMMISSIONERS' PRESENTATIONS

President and Human Rights Commissioner

- Speech to the University of the Third Age (U3A), Mawson, 16 August 2017
- Commission screening of *Zach's Ceremony* to celebrate UNDRP anniversary, 13 September 2017
- Speech to U3A, Belconnen, 20 September 2017
- UC Honorary PhD Ceremony at Parliament House, 28 September 2017
- Social Justice, Australian Centre for Christianity, 18 October 2017
- Walk Together Canberra, Glebe Park, 21 October 2017
- Lecture at ANU John XXIII College (Roncalli Lecture Series), 21 October 2017
- Smoking Ceremony held at the Commission premises, 17 November 2017
- Meeting with Zimbabwe Delegation, 4 December 2017
- International Human Rights Day Community Forum, 8 December 2017
- OPCAT lunchtime Roundtable, 12 December 2017
- Sentence Administration Board Meeting Presentation, 14 December 2017
- Farewell to outgoing Victims of Crime Commissioner, John Hinchey, 14 December 2017
- Jessup International Law Moot Competition award presentation and speech, 10 February 2018
- Ministerial Advisory Council of Women, 26 March 2018
- Islamophobia: Myth or Reality, Forum Australia, 16 April 2018
- Justice Connections Conference, 1 June 2018
- Elder Abuse World Awareness Day speech, 15 June 2018

Discrimination, Health Services, Disability and Community Services Commissioner

- HCCA Consumer Forum, 31 July 2017
- Interfaith Network Conference panel, 20 September 2017
- Disability Advocacy in Action, 30 September 2017
- Human Rights and the Rights of Persons with a Disability – practical ways to use human rights, 18 November 2017
- ATO employees network LGBTIQ panel, 15 December 2018
- Presentation to executive officers, Health Directorate, 12 December 2017
- Atomic Panel, 15 December 2017
- UN Special Rapporteur on the Rights of Persons with Disabilities, 27 February 2018
- Medical Board presentation, National Sexual Boundaries Notification Committee, 1 May 2018
- ANU Law School Panel on discrimination law and LGBTIQ community, 8 May 2018
- UC Human Rights Law Panel LGBTIQ rights, 17 May 2018
- ACT School Sports on *Everyone can play: transgender and intersex sports guidelines*, 5 June 2018

Victims of Crime Commissioner

Commissioner Heidi Yates presented to:

- CYPs training, 10 April 2018
- Law Week presentation – Disability Justice – Equal Before the Law, 15 May 2018
- DigniTEA High Tea event, 26 May 2018.

Commissioner John Hinchey (previous incumbent) presented to the following forums:

- ACT Policing Victims of Crime Team training, 31 August 2017
- African Australian Awards Ceremony, 30 September 2017.

Public Advocate and Children and Young People Commissioner

- Gudan Gulwan Youth Aboriginal Corporation 2017 NAIDOC Youth Awards, 6 July 2017
- Community Services Directorate Joint Governance Board, 11 July 2017
- Australian Defence Force Cadets Youth Safety Forum, 29 July 2017
- Australian National University – International Child Law lecture, 25 August 2017
- Senate Standing Committee on Community Affairs – Inquiry into the *National Disability Insurance Scheme Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017*, 5 September 2017
- NAPCAN Play Your Part Awards, 6 September 2017
- Girl Guides ACT and SE NSW Annual Youth Presentation Day, 10 September 2017
- SNAICC Conference, 13 September 2017
- Big hART Project O young women's empowerment group, 15 September 2017
- Youth Justice Roundtable, 11 October 2017
- CYPC 10th Anniversary celebration, 24 October 2017
- ACT Children's Week Awards, 25 October 2017
- Daramalan College Social Justice Class, 30 October 2017
- Supported Decision Making Panel discussion – Health Care Decisions, 14 November 2017
- Official Visitor Training, 17 November 2017
- Big hART Project O Colourathon, 30 November 2017
- Reportable Conduct Scheme Public Forum, 26 February 2018
- Neighbour Day Media Launch, 1 March 2018
- University of the Third Age Current Affairs class, 14 March 2018
- Domestic Violence Prevention Council Extra-Ordinary meeting, 4 April 2018
- Out Booris, Our Way Steering Committee presentation, 9 April 2018
- Bimberi Induction, 17 April 2018
- Legislative Assembly Standing Committee on Health, Ageing and Community Services – Inquiry into the Implementation, Performance and Governance of the National Disability Insurance Scheme in the ACT, 11 May 2018
- Barnardos Youth Justice Forum, 14 June 2018
- Royal Commission into Institutional Responses to Child Sexual Abuse – Act Government Response Community Briefing, 15 June 2018

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ACRONYMS AND ABBREVIATIONS

ACAT	ACT Civil and Administrative Tribunal
AMHU	Adult Mental Health Unit
AHPRA	Australian Health Practitioner Regulation Agency
AMC	Alexander Maconochie Centre
ATSIEB	Aboriginal and Torres Strait Islander Elected Body
Bimberi	Bimberi Youth Justice Centre
BPD	Borderline personality disorder
CCOs	Community care orders
CCR	Child concern report
CSD ACT	Community Services Directorate
CYP Act	<i>Children and Young People Act 2008</i>
CYPS	Child, Youth Protection Service
DVPC	Domestic Violence Prevention Council
FCCOs	Forensic Community Care Orders
HPRN	<i>Health Practitioner Regulation National Law</i>
HR Act	<i>Human Rights Act 2004</i>
HRC Act	<i>Human Rights Commission Act 2005</i>
JACS ACT	Justice and Community Safety Directorate
LGBTIQ	Lesbian, gay, bisexual, transgender, intersex, queer
LRAC	Law Reform Advisory Council
MAP	Management Assessment Panel
MLA	Member of the Legislative Assembly
NAIDOC	National Aborigines and Islanders Day Observance Committee
NDIS	National Disability Insurance Scheme
OATSIA	Office of Aboriginal and Torres Strait Islander Affairs
OPCAT	Optional Protocol to the Convention Against Torture
ORT	Opioid replacement therapy
OoHC	Out of home care
PTG	Public Trustee and Guardian
PYW	Premier Youth Works
RAP	Reconciliation Action Plan
RTO	Registered Training Organisations
SNAICC	Secretariat of National Aboriginal and Islander Child Care
SSN-ACT	Survivor Support Network ACT
UNDRIP	UN Declaration of the Rights of Indigenous Peoples
VSACT	Victim Support ACT
VoCFA	<i>Act Victims of Crime (Financial Assistance) Act 2016</i>
WHS	Work, health and safety