



**ACT HUMAN RIGHTS
COMMISSION**
Australian Capital Territory

Operations Protocol

February 2023

The Vision of the ACT Human Rights Commission is:

An inclusive community that respects and realises human rights and ensures access to justice for everyone

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1. Overview and Structure of ACT Human Rights Commission

The ACT Human Rights Commission (the Commission) is an independent agency established by the [Human Rights Commission Act 2005](#) (HRC Act) offering a range of services, including:

- oversight of systemic issues, review of laws, and advice to government and others regarding human rights compliance;
- independent complaint handling covering a range of service providers, and discrimination matters;
- advocacy for children, young people and adults experiencing vulnerability, and oversight of associated systems;
- consultation with children and young people to enable their participation in decision-making about matters that affect them;
- advocacy, information, therapeutic services, financial support and other supports to victims of crime; and
- community education, training and information about human rights.

The ACT was the first jurisdiction in Australia in 2004 to enact a [Human Rights Act](#) (HRA) which provides an explicit statutory basis for respecting, protecting and promoting most civil and political rights, and some economic, social and cultural rights. Human rights are universal and enjoyed by everyone in the ACT regardless of gender, religious belief, nationality, race or any other status.

Human rights underpin all the Commission's activities in each area of our work. There are eight distinct roles at the Commission, which are held by four Commissioners. Commission members are required to act in a way that promotes the collegiate nature of the Commission. The current members of the Commission are:

Dr Helen Watchirs – President and Human Rights Commissioner

The President is responsible for the Commission's governance, finance, resources, and corporate administration, with specific statutory functions for systemic matters and reporting obligations. The President of the Commission is also the Human Rights Commissioner. The role of the Human Rights Commissioner is to promote discussion and educate the community about human rights; to provide systemic oversight and advice to Government and others on compliance with human rights; to review the effect of Territory laws on human rights, including monitoring places of detention, and to seek leave to intervene in significant court and tribunal human rights cases.

Ms Jodie Griffiths-Cook - Public Advocate and Children and Young People Commissioner

The role of the Public Advocate and Children and Young People Commissioner (PACYPC) is to protect and promote the rights and interests of people in the ACT whose condition or circumstances make them vulnerable to abuse, exploitation, or neglect; and to consult with, listen to and seriously consider the views of children and young people in ways that promote their participation in decision-making. The responsibilities of the PACYPC are underpinned by a range of functions including advocacy (individual and systemic), representation, investigation, monitoring and oversight. Some of these functions are specific to children and young people, and others encompass people with complex disability needs, including those with mental health conditions and/or forensic patients.

Ms Karen Toohey - Discrimination, Health, Disability and Community Services Commissioner

The role of the Discrimination, Health, Disability and Community Services Commissioner (DHSDCSC) is to consider complaints including about unlawful discrimination, sexual harassment and vilification, health services, disability services, services for children and young people, services for older people, treatment of vulnerable people, sexual and gender identity conversion practices, occupancy disputes and complaints from victims of crime. The Commissioner also considers complaints about breaches of the [*Health Records \(Privacy and Access\) Act 1997*](#). The Commissioner uses Commission-initiated considerations to investigate and address systemic issues. The Commissioner also provides education and training, improves service provision, and contributes to legislative and policy development across these areas.

Ms Heidi Yates - Victims Support and Victims of Crime Commissioner

The role of the Victims of Crime Commissioner (VOCC) is to protect and promote the rights of victims of crime and affected persons in the ACT. This includes monitoring and promoting compliance with victims' rights under the *Victims of Crime Act 1994* (VOC Act), and overseeing Victim Support ACT which delivers a wide range of advocacy, therapeutic and other support services for victims of crime and includes the Financial Assistance Scheme. The VOCC also administers the ACT Witness Intermediary Program, the Family Violence Safety Action Program, Victims Registers, and performs the statutory functions of the Domestic Violence Project Coordinator.

2. Introduction

This Protocol is required under s 18C of the HRC Act which provides that the President must develop and publish an Operations Protocol every three years, after consulting with the other Commissioners. The Protocol is available on the Commission's website at www.hrc.act.gov.au and it provides information about:

- How to access the Commission's services
- What are relevant Governance documents
- What happens at Commission meetings
- How we undertake advocacy functions
- How we report on systemic matters
- How enquiries and complaints generally will be received by the Commission
- How complaints are dealt with within the Commission
- How complaints are referred within the Commission, or to other complaint handling entities; and
- How we deal with Commission-initiated considerations

3. How to access the Commission

The Commission is committed to making any reasonably needed adjustments so that people can engage with us. This includes the use of interpreters, assistive technology and involving support people of a person's choosing.

The Commission is located at 56 Allara St, Canberra ACT (see map below) in Allara House with reception on the Lower Ground level. The Commission is open Monday to Friday, between 9:00am-5:00pm, except on public holidays.

It is recommended that people call or email to make an appointment before visiting the Commission. Making an appointment ensures that a staff member is free to speak with a person. Appointments can be made Monday to Friday between 9.00am-4.30pm by phoning on (02) 6205 2222 or emailing to human.rights@act.gov.au.



4. Relevant Governance Documents

The Commission's seven signature **Values** of Respect, Collaboration, Integrity, Innovation, Accessibility, Cultural Safety, and Independence guide the day-to-day actions, behaviours and decisions in the delivery of services to the community. As well as this Operations Protocol, the Commission is required under the HRC Act to develop other governance documents, details of which are set out below.

Strategic Plan 2021-2024

Our *Strategic Plan 2021-2024* sets out our Vision, Purpose, Values, and Priorities. It is published on our website at www.hrc.act.gov.au

Client Service Charter

The Commission believes that all people deserve to be treated with dignity, and we are committed to ethical, prompt, respectful and helpful client service. Our *Client Service Charter 2020-22* was developed under s18B of the HRC Act and explains what clients can expect from the Commission, how we provide

services and how to offer feedback to help improve our services. You can access the Charter on our website at www.hrc.act.gov.au

Governance and Corporate Support Protocol

The Commission developed a *Governance and Corporate Support Protocol 2021-2024* under s18A of the HRC Act in 2021 that articulates our respective roles and responsibilities as an independent statutory authority which relies on the Justice and Community Safety Directorate to assist with some corporate support functions, such as financial accounting, auditing, human resources, information management and technology support. You can access our Governance and Corporate Support Protocol at www.hrc.act.gov.au.

5. What happens at Commission meetings

The Commissioners meet at least once a month for approximately 90 minutes. The President, all Commissioners, the Senior Director, Governance and Corporate Support, and the Executive Support and Senior Administration Officer to the President as minute-taker, should normally be present at Commission meetings. The Finance and Administration Manager will provide a Report on finance issues. Staff members can be invited to the meeting to address a proposal that the Commission will be deciding about (e.g., the Communications Officer).

Agenda & Minutes

The draft Agenda is circulated at least forty-eight (48) hours in advance of the meeting.

Draft Minutes are provided to Commission members within ten (10) working days of the meeting. The minutes are generally approved at the following meeting.

Statutory rules for meetings

Division 3.9 of the HRC Act sets out the Commission meeting rules, which are attached to this Operations Protocol (Appendix 1).

6. Advocacy

There are two main types of advocacy performed by Commissioners, systemic and individual.

- **Systemic advocacy** occurs where Commissioners advocate on behalf of a group of people experiencing vulnerability to achieve an outcome that is in the interests of many people in the community. This usually means facilitating change in the way a service is provided so that service improvements can benefit people both now and in the future. It can involve an investigation and/or evidence-based research, which can then inform and influence legislative and policy reform, programs, and practices to improve the outcomes and opportunities for people experiencing vulnerability.
- **Individual advocacy** occurs where Commissioners advocate on behalf of an individual person to achieve an outcome that upholds their rights and is in their interests, such as providing or obtaining services, or changing the way services are provided. Individual advocacy may be undertaken in different ways and includes brokering services such as counselling, and attending court or a

tribunal hearing, participating in case conferences or meetings, liaising on the individual's behalf with justice agencies, convening multi-agency panel meetings or by negotiating with, fostering and supporting agencies to achieve improved services that uphold the rights and interests of people experiencing vulnerability, and who may be subject to abuse or exploitation.

All Commissioners perform advocacy roles, but two Commissioners have specific statutory advocacy roles – the PACYPC and the VOCC. Referrals for individual advocacy can be made by contacting the Commission, and a member of the relevant team will be allocated to assist the person.

The **PACYPC** has legislative responsibility under the HRC Act for promoting, protecting, upholding, and advocating for the rights and interests of people in the ACT who are experiencing vulnerability. This role extends to all persons whose situation or condition gives rise to a need for protection from abuse, exploitation or neglect, or a combination of those things, such as people involved with mental health services, disability services and children and young people with child youth protection services.

Under s 27B of the HRC Act the Public Advocate (PA) has the following advocacy functions for people with a disability and children and young people:

- Fostering the provision of services and facilities for people with a disability and children and young people
- Supporting the establishment of organisations that support people with a disability and children and young people
- Encouraging the development of programs benefitting people with a disability
- Promoting the protection of people with disability and children and young people from abuse and exploitation
- Representing forensic patients before the ACT Civil and Administrative Tribunal or a court

The Public Advocate is also accorded a range of additional responsibilities under other legislative instruments.

The role of the Children and Young People Commissioner (CYPC) under s 19B (3) is to:

- help improve services for children and young people in the ACT,
- promote the rights of children and young people,
- consult with children and young people in ways that promote their participation in decision making,
- encourage other organisations to listen to children and young people, and seriously consider their views in decision making, and
- provide advice to government and community agencies about legislation, policies, practices and services that affect children and young people.

The **VOCC** engages in systemic and individual advocacy for victims of crime. Section 11 of the VOC Act sets out the Commissioner's advocacy functions including:

- advocating for the interests of victims of crime

- advocating for the interests of affected people under the *Mental Health Act 2015*
- monitoring and promoting compliance with victims' rights
- ensuring victims' rights concerns are dealt with promptly and effectively
- promoting the prompt and effective resolution of complaints about victims' rights made to relevant complaints entities eg DHSDCSC or the Ombudsman
- consulting on and promoting reforms to meet the interests of victims of crime
- developing educational and other programs to promote awareness of the interests of victims of crime
- ensuring victims receive information and assistance they need in connection with their involvement in the administration of justice and
- advising the Minister on matters in relation to the interests of victims of crime.

7. Systemic Reviews

A **systemic review** investigates broader system-wide issues in areas such as justice, health, children, disability, community, older persons and other services, as well as places of detention. A systemic review can take several forms, and there may be overlap in the statutory powers under which it is performed by Commissioners.

A systemic review is different to a **Commission-initiated consideration** (see part 10 below), which is generally about the circumstances of an individual.

The Commission will consider the following issues when identifying matters for Systemic Review:

- whether the issue involved a limitation of rights under the HRA
- where the Minister has directed the Commission to review a matter
- whether the issue is relevant to the work of more than one Commissioner, and may be a focus for collaboration between Commissioners
- where a third-party report is warranted (see part 10 below)
- whether the issue is a matter of public importance, or involves serious public safety or other public interest issues e.g., violence
- the detriment potentially suffered by individuals if the Commission did or did not take such action
- the vulnerability of the group affected, e.g., children, people with certain types of disability, or detainees
- where the issue is a matter affecting the system for the protection of the rights of users of prescribed services (or a class of user) as a whole, rather than a matter affecting an individual alone
- whether it is a matter affecting the system for the provision of prescribed services (or a class of prescribed services) as a whole, rather than a matter affecting an individual alone; and
- The scope of the systemic review and the capacity, including available resources, of the Commission to undertake that review.

Section 6A of the HRC Act defines a 'prescribed service' as a:

- health service
- disability service
- service for children and young people
- service for older people
- service for victims of crime.

While all Commissioners can undertake reviews, the President has explicit statutory functions in relation to systemic reviews, including:

- reporting to the Minister and other appropriate entities about a review arising from the complaints' jurisdiction of the Commission (section 14(1)(d))
- reporting to the Minister and other relevant entities regarding a report arising from a Minister's direction (section 17)
- a Commission-initiated report – where the Commission elects to undertake a consideration of a matter that could be the subject of a complaint, or any other matter relevant to the Commission's functions, such as reviewing the effect of territory laws on human rights (section 84)
- an own-initiative report to the Minister about any matter of public importance related to the Commission, its functions or a matter that may be complained about (section 87); or
- providing a third party a report that arises from a complaint consideration process, where such a report is in the public interest, as well as other specific criteria (section 83).

The President may also report in writing to the Minister about:

- a matter of public importance relating to the commission, including how the commission handles complaints under the HRC Act
- a matter affecting the system—
 - for the protection of the rights of users of prescribed services (or a class of user) as a whole, rather than a matter affecting an individual alone; and
 - for the provision of prescribed services (or a class of prescribed services) as a whole, rather than a matter affecting an individual alone (section 18 (2) (c)).

The President will consult with other Commissioners and consider the factors listed above in considering such a systemic review.

Similarly, Commissioners have separate specific functions to advise on systemic matters including:

- The VOCC's functions under the VOC Act to advise the Minister on matters relating to the interests of victims.
- The Discrimination Commissioner's functions to promote the right of people to be free from unlawful discrimination and related functions.

- The functions of the PA to encourage the development of programs that benefit people with a disability and related functions.
- The Human Rights Commissioner's functions regarding providing advice to government on matters relevant to the operation of the HRA.

Generally individual Commissioners can instigate such systemic reviews or advice using their existing resources, although, as a courtesy, all other Commissioners will be notified prior to a systemic review commencing. With the consent of the relevant Commissioner, resources may be provided from one area of the Commission to another. This is further discussed below in relation to shared resources.

The President will generally make the findings of a systemic review public and in some cases, it will be tabled in the Legislative Assembly by the Minister (for example a human rights audit under section 41 of the HRA. However, publication will not always proceed and will be determined by how best to address the issues identified and the legislative powers used to conduct the review.

8. Enquiries

Anyone can contact the Commission with an enquiry. Reception staff will seek basic information so that they can direct the enquiry to the most appropriate part of the Commission. Depending on the nature of the enquiry, it may be directed to any of the four Commissioner's teams that make up the Commission: President and Human Rights Commissioner; PACYPC; DHSDCSC; and the VOCC.

The amount of information provided about the enquiry to the reception staff is up to the person. The person can choose not to provide information about why they are making an enquiry; however, without providing some basic information it is hard for reception staff to direct the call within the Commission.

Reception staff are not able to provide information about a matter that the Commission is handling to a third party.

The Commission staff may ask questions about the enquiry and if the person identifies as:

- an Aboriginal and/ or Torres Strait Islander person
- a person from a Culturally and Linguistically Diverse background and/or
- a person with a disability.

This information is collected to enable us to help the person with any assistance or accommodation they may require, such as an interpreter, and is reported in our databases to generally monitor the accessibility of our services. We strive to make our premises fully accessible. People are also entitled to reasonable assistance from our staff to put a complaint in writing. If a person needs help in filling out our forms, they can ask for an appointment with one of our Intake officers. More information about the Commission is available on the website at www.hrc.act.gov.au.

9. Confidentiality

Third Party Disclosure

Consistent with our Privacy Policy, personal information collected by the Commission is not released to third parties, unless disclosure is permitted.

Personal information will generally only be released to third parties when consent is provided to share the information, or otherwise permitted, or required, under relevant legislation including:

- [Information Privacy Act 2014](#)
- [Health Records \(Privacy and Access\) Act 1997](#)
- [Children and Young People Act 2008](#)
- [Victims of Crime Act 1994](#)
- [Victims of Crime \(Financial Assistance\) Act 2016](#) and
- [Human Rights Commission Act 2005](#).

Internal Discussions

The Commission may share the information a person provides to us *within* the Commission, including for the purposes of:

- assessing the best area of the Commission to handle the enquiry
- determining if a person has already contacted the Commission about their matter
- informing other areas of our work including systemic reviews and commission-initiated considerations.

Where that personal information is required by law to be kept confidential, Commissioners (and their staff) will only be permitted to share it with another Commissioner where they consider it is necessary for the effective exercise of one or more of the Commission's functions (s 99A, HRC Act). Any legal restrictions on sharing will extend to another Commissioner with whom that information is shared.

10. Children's participation and engagement

The Commission is committed to a child-safe, child-friendly Canberra. The Commission has statutory functions to consult with children and young people in ways that promote their participation in decision-making, and to listen to and seriously consider the views of children and young people. The Commission is also committed to ensuring the Commission is accessible to children and young people, and to being sensitive to the cultural diversity of children and young people.

The more that 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; to giving them the strength to speak out about both societal issues and about personal issues.

Children and young people are more likely to seek assistance, speak up about their concerns, or to make a complaint, if they feel their views are valued and welcomed. The Commission affirms a child or young person has the right to participate in all aspects of social life and the shared understanding that empowering them to do so will have positive effects on the broader Australian community.

The Commission encourages approaches both from children and young people directly, and from those supporting children and young people.

11.Services for Victims of Crime

The Commission is also committed to ensuring the provision of efficient and effective services for victims of crime in the ACT and monitoring and promoting compliance with victims' rights under the VOC Act. The VOCC's role includes advocating for the rights and interests of victims, overseeing Victim Support ACT (VSACT) services and administering the Family Violence Safety Action Program and the Intermediary Program. All VSACT services are free and confidential.

The VOCC is appointed as the ACT Domestic Violence Project Coordinator and also chairs the ACT Family Violence Intervention Program Coordinating Committee and is a member of the ACT Victims Advisory Board and the Liquor Advisory Board.

Victim Services Scheme

The Victim Services Scheme provides wrap-around support and case coordination to victims of crime and their families in many ways including:

- Facilitating the provision of free counselling and other therapeutic services
- Providing victims with information about the justice system and reporting a crime to police
- Helping victims navigate the justice system and informing them of their victims' rights under the Part 3A of the VOC Act
- Resolving concerns raised by victims in relation to their victims' rights under the Part 3A of the VOC Act
- Helping victims to apply for financial assistance
- Helping victims prepare a victim impact statement for court
- Referring victims to other specialist services, e.g., the Domestic Violence Crisis Service (DVCS) or the Canberra Rape Crisis Centre (CRCC).

Victims do not need to report a crime to police to receive help from Victim Services.

Court Support Program

The Court Support Program provides emotional and practical support to victims throughout justice processes, including court and post sentence procedures. The Program can also provide support in applying for a Family Violence Order or Personal Protection Order. Court Support is delivered by VSACT staff and highly skilled, trained volunteers.

Aboriginal and Torres Strait Islander Outreach Program

The Aboriginal and Torres Strait Islander outreach program promotes understanding and upholding of victim rights within the Aboriginal and Torres Strait Islander community. The aim of the program is to ensure that Aboriginal and Torres Strait Islander people who are victims of crime can access support and assistance in a culturally safe and responsive way.

Multicultural Outreach Program

VSACT has a multicultural liaison officer who works closely with multicultural communities in the ACT to break down barriers to accessing VSACT services and improve access to justice. This work focuses on engaging and supporting newly arrived migrants, refugees and asylum seekers and uses a holistic model of care that addresses the different needs of people from multicultural backgrounds who have been impacted by crime.

Disability Outreach Program

VSACT has a disability liaison officer who is a dedicated case coordinator within the Client Services team to support clients with a disability, provide advocacy and make links with appropriate therapeutic providers. The disability liaison officer also undertakes systemic projects to further the mission of the ACT Disability Justice Strategy and raise awareness of Victim Support's services and develop referral pathways within the disability sector.

Victims Registers

VSACT administers the three victims registers in the ACT, that is the Adult Offenders Victims Register, the Youth Justice Register and the Affected Persons Register. The registers play a crucial role in facilitating the provision of information and support to victims of crime in relation to the management of offender sentences, and to affected persons where matters are submitted to the ACAT's jurisdiction or are required to be reviewed by the ACAT.

Financial Assistance Scheme

VSACT's financial assistance scheme (FAS) provides financial assistance to victims of crime to assist them to recover from acts of violence, to contribute to their safety and to acknowledge the harmful effects of acts of violence.

As prescribed by the Victims of Crime (Financial Assistance) Regulation 2016, immediate need payments can assist victims with urgent expenses and can include applications for the cost of cleaning a homicide scene, personal security (eg, changing locks, installing security screens, relocation expenses), emergency medical costs and related services that contribute to recovery. Economic loss payments can cover financial costs incurred because of an act of violence. Recognition payments can be paid to acknowledge the trauma suffered by victims of violent crime. FAS operates as a scheme of last resort and in most cases, a report to police is required to access financial assistance.

Family Violence Safety Action Program

The VOCC administers the family violence safety action program which enables the ACT Government and non-government sectors to collaboratively identify, assess and respond to high-risk domestic and family violence matters. The Program operates in partnership with the Domestic Violence Crisis Service and works closely with community and justice agencies to increase the visibility and accountability of domestic and family violence perpetrators to promote the safety of victim-survivors.

Intermediary Program

The VOCC also administers the ACT Intermediary Program which encompasses accredited professionals who are independent officers of the court and are specially trained to facilitate the communication of vulnerable witnesses. Intermediaries provide services wherever police need to conduct investigative

interviews, from police stations to hospitals, schools to private homes. The program operates 24 hours a day, seven days a week. Intermediaries are appointed at the request of ACT Policing or the Courts.

People may contact Victim Support ACT by phone (02 6205 2066) or via email at victimsupportintake@act.gov.au for an initial conversation with a team member about the Victims Services Scheme, the Financial Assistance Scheme, the outreach programs and the victims registers. The Family Violence Safety Action Program and the Intermediary Program receive referrals from agencies and will generally directly contact the clients referred if necessary.

Complaints handled by the Commission

We believe that all people deserve to be treated with dignity and respect. Like all public servants in the ACT, our staff have obligations under the HR Act to take human rights into account in their decision-making and actions. The Commission provides an independent, fair, and accessible process for the resolution of complaints. We can deal with complaints about:

- Disability services
- Discrimination, sexual harassment and vilification
- Health services (including Veterinarian services)
- Breaches of the *Health Records (Privacy and Access) Act 1997*
- Services for children and young people
- Services for older people, including retirement villages
- Victimisation
- Treatment of vulnerable people
- Sexual and gender identity conversion practices
- Occupancy disputes
- Victims' charter of rights complaints (including VOCC)

Who can make a complaint?

People can make a complaint to the Commission directly, or in some cases on behalf of someone else. Parents, carers, or guardians can make a complaint on behalf of their children or a person they have guardianship for. The Commission can also authorise a person to act on a person's behalf if we are reasonably satisfied that they are not able to make a complaint themselves, and they are unable to authorise somebody else to do it for them. If the complaint is about discrimination, the incident must have happened to the person or someone on whose behalf they are complaining.

There are circumstances where we can deal with a complaint made confidentially or anonymously. If a person is concerned about a matter, they are not directly affected by they can contact the Commissions intake team to discuss their concern so the Commission can decide whether it is a matter we may be able to deal with.

Complaints are usually made in writing, and the complaint forms are available on the Commission's website at <http://hrc.act.gov.au/complaints/>. Commission staff can help put the complaint in writing. If a person needs help filling out the complaint form, they should make an appointment and a staff member will assist them.

When handling complaints, the Commission follows the principles of natural justice, which means that:

- the person who handles the complaint is impartial and unbiased
- the person or organisation the complaint is about has the right to know about the complaint and to provide a response to the allegations; and
- the complainant and the person or organisation the complaint is about have the right to know the information that the Commission relies on to make decisions.

Complaints dealt with by the Commission

To decide if the complaint falls within the Commission's jurisdiction, Commission staff will ask if the issue occurred in the ACT, when it happened, what happened, and what the person would like as an outcome.

When the Commission accepts a complaint for consideration, it will be provided to a complaint handler, who will manage the complaint by seeking information from the person or organisation the complaint is about and will provide updates on the progress of the complaint.

During the review process the Commission can ask the complainant, or anyone involved in the complaint to provide information, eg, witnesses or experts. There are times when the Commission may issue a formal direction for someone to provide information or documents that are relevant to the complaint.

The complainant will also be given information provided to the Commission from the person or organisation the complaint is about. The complaint handler will provide information to all parties when a decision has been made at the conclusion of the process.

Complaints referred within the Commission or to other agencies

Sometimes a complaint has more than one issue that may need to be looked at. For example, if a complaint is made about a disability service and the person needs advocacy, the Disability Services Commissioner may refer the matter to the PA for advocacy support.

There are times when information provided by a complainant may be provided to another agency without the consent of the complainant. This will only occur where there is a risk to the safety of the complainant or someone else, or a risk to the public.

There may be times when the Commission cannot investigate a complaint because it is outside the Commission's jurisdiction. If that occurs, Commission staff will contact the complainant and explain why referring the complaint to another agency is appropriate. For example:

- a discrimination complaint relating to a Commonwealth agency in the ACT may be referred to the Australian Human Rights Commission
- a complaint about ACT Policing may be referred to the ACT Ombudsman
- a complaint relating to a matter that occurred in another State or Territory may be referred to the corresponding complaint handling body in that State or Territory or to the Australian Human Rights Commission.

Conciliation

The Commission seeks to provide an independent and fair process for the resolution of complaints by the process of conciliation. Sometimes the best way to resolve the complaint is for the complainant and the person or organisation the complaint is about to meet and talk, if they agree - this is called conciliation.

The purpose of conciliation is to find a resolution that can be agreed. Conciliation is led by a conciliator from the Commission who will make sure that both the complainant and the person or organisation the complaint is about have the opportunity to be heard. Conciliation will generally cover:

- the issues outlined in the complaint and the impact that these have had
- other issues that may have arisen, and
- possible solutions to reach a resolution of the complaint.

Closure of a Complaint

At the end of the complaint process the Commission will close the complaint. When the Commission closes a complaint, the Commission will contact the parties to explain the reasons the matter has been finalised.

If an agreement or resolution has been reached the Commission staff can help draft that agreement. A copy of the agreement will be provided to both the complainant and the person or organisation the complaint is about.

If the complaint was about discrimination, written agreement must be provided by all parties and it is provided to the ACT Civil and Administrative Tribunal (ACAT). If a discrimination complaint; a retirement village complaint; an occupancy dispute complaint or conversion practice complaint is closed, has been withdrawn, or not successfully resolved, the Commission must offer the complainant the option to take their complaint to the ACAT. A complaint can only be referred to ACAT if the complainant agrees.

13. Commission-initiated consideration

The Commission can consider matters on its own initiative and commence an investigation. A commission-initiated consideration does not have an individual complainant, but the investigation would be of public interest. Factors the Commission considers in determining if a commission-initiated consideration should occur include:

- The matter raises systemic issues, or may significantly affect an individual
- The matter raises serious public safety or other public interest issues
- The matter has a particular impact on a vulnerable group of people, and
- The outcome available because of the Commission looking into a matter on its own initiative.

The HRC Act requires that a commission-initiated consideration must, as far as practicable, be conducted as if it were a consideration of a complaint. Therefore, commission-initiated considerations will generally be managed by the DHSDCSC and her team.

Recommendations and Adverse Comments

At the conclusion of a complaint about a service, or a commission-initiated consideration, a report may be written, and this may include recommendations. The person or agency that the recommendation relates to must provide a response to the Commission about the actions taken to comply with the recommendations.

If the Commission makes a recommendation, it must state a reasonable time within which the action should be taken. It can be an offence if the person or agency fails to tell the Commission what action has been taken about the recommendation. The Commission can publish or report about an entity's failure to

do something recommended, or to attend an interview or provide information to the Commission. However, prior to doing so, the Commission must give the entity a written notice that—

- gives details of the entity's failure to which the notice relates
- explains that the Commission proposes to publish the entity's name and details of the entity's failure; and
- invites submissions about the proposed publication within the time stated in the notice (not less than two weeks after the day the entity is given the notice).

There may be times when the outcome of a complaint or commission-initiated consideration may include adverse comments about a person. Before the adverse comment is included in a report, the Commission will contact the person to advise them of the intention to make the adverse comment and provide that person an opportunity to provide a response.

14.Sharing Resources

The Commission always strives to act collegiately and share expertise and resources across teams to further the strategic aims of the organisation. This is particularly so for the President's team whose functions are to support the work of the whole organisation.

The President's Team includes central corporate functions, administration, finance, communications, and Aboriginal and Torres Strait Islander liaison.

To ensure the organisation can meet its strategic goals, all Commissioners should be kept informed of how resources are being utilised across the organisation. Commissioners will, as far as practicable, notify all Commissioners about:

- Media liaison, ideally in advance
- Social media messages
- Commission-initiated considerations, systemic reviews or other work that is likely to require significant resources
- Meetings and correspondence with Ministers and Directors-General
- Advice requests from Members of the Legislative Assembly

If there is a disagreement as to the allocation of resources, this is settled at a meeting of Commissioners.

Communications/Media

The President will endeavour to make centralised resources available for communication and media activities. This will include managing whole-of-commission branding. The Commission's Governance and Corporate Support Protocol with the Justice and Community Safety Directorate requires the President to notify the Minister and Directorate of media contact. To facilitate this, Commissioners will inform the President and relevant members of her team of any media liaison.

Branding

The HRC Act and the VOC Act contemplate individual Commissioner's roles including promotion of specific functions and services. Commissioners may elect to use individual brands, consistent with the overall Commission-brand and key messages. However, communication and correspondence referring to,

or signed by, more than two Commissioners should be presented under Human Rights Commission branding.

Legal Support

The Commission's Governance and Corporate Support Protocol with the Justice and Community Safety Directorate requires the President to provide advice on behalf of the Commission to the Directorate in relation to draft Cabinet Submissions. The Protocol also notes that it is desirable for the President, on behalf of the Commission, to provide the Director-General with an information copy of any brief or other material submitted to the Minister.

Many law reform and policy proposals will also engage human rights. As well as obligations to act and make decisions consistently with human rights as a public authority,¹ section 15 of the HRC Act also places a specific obligation on the Commission to act in accordance with human rights when exercising its functions. Any legislative or policy proposal advanced by the Commission will satisfy the minimum requirements for compatibility with the HR Act

Therefore, the Human Rights Commissioner's legal team provides coordination and legal policy support including:

- Assessing Cabinet Submissions that come to the Commission for comment for issues that are relevant to other Commissioners
- Coordinating responses to Cabinet Submissions and government proposals to be signed-off by the President
- Providing advice, training and support on human rights issues
- Providing initial and general advice on legal issues as they arise (noting that formal advice should be sought from the Government Solicitor's Office)

To assist in this work, Commissioners will make the Human Rights Commissioner's legal team aware of proposals regarding law reform, policy change or requests for advice from MLAs. This includes proposals they initiate, or that come to their attention from outside the organisation.

Advice to MLAs

Under the Commission's Governance and Corporate Support Protocol with the Justice and Community Safety Directorate the President may, on behalf of the Commission, provide advice directly to Members of the Legislative Assembly without the need to notify the Attorney-General, the Minister for Justice or JACS. The Protocol notes that if the President/HRC provides formal written advice on a draft Bill to any Member of the Assembly, it will normally be posted on the Commission website at the appropriate time.

15. Recruitment

Commissioners will be responsible for recruitment of staff within their own teams, in consultation with the Finance and Administration Manager to confirm such recruitment is within their funding envelope. As required under ACT Government legislation and policies, where Commissioners chair recruitment panels, the President must sign off as delegate.

¹ Part 5A of the Human Rights Act.

APPENDIX 1: Statutory rules for meetings

30 Time and place of commission meetings

- (1) Meetings of the commission are to be held when and where it decides.
- (2) However, the commission must meet at least once each month.
- (3) The president may call a meeting of the commission.
- (4) The president, when calling a meeting, must give the other members reasonable notice of the time and place of the meeting.

31 Presiding member at meetings

- (1) The president presides at all meetings at which the president is present.
- (2) If the president is absent, the member chosen by the members present presides.

32 Quorum at meetings

Business may be carried on at a meeting of the commission only if at least 3 members of the commission are present.

33 Voting at meetings

- (1) At a meeting of the commission each member has a vote on each question to be decided.
- (2) A question is decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has the deciding vote.

34 Individual with more than 1 role

- (1) This section applies if—
 - (a) a person holds 2 or more positions under this Act; and
 - (b) the person is a member of the commission because of each of the positions.

Example

The disability and community services commissioner may be appointed as the health services commissioner.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) The person is only entitled to 1 vote at commission meetings.
- (3) In working out whether 3 members are present at a meeting for section 32 (Quorum at meetings), the number of members is taken to be the number of individuals who are members.

Example

If the discrimination commissioner is also the human rights commissioner, the number of members is taken to be 4. Therefore, 2 members (rather than 3) would need to be present at a meeting to carry on business.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

35 Conduct of meetings etc

- (1) A meeting may be held using a method of communication, or a combination of methods of communication, that allows a commission member taking part to hear what each other member taking part says without the members being in each other's presence.

Examples

a phone link, a satellite link, an internet or intranet link

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (2) A commission member who takes part in a meeting conducted under subsection (1) is taken, for all purposes, to be present at the meeting.
- (3) A resolution is a valid resolution of the commission, even if it is not passed at a meeting of the commission, if—
 - (a) notice of the resolution is given under procedures decided by the commission; and
 - (b) all members agree, in writing, to the proposed resolution.
- (4) The commission must keep minutes of its meetings.