



ACT HUMAN RIGHTS
COMMISSION

ANNUAL REPORT 2015-2016

INCORPORATING THE:

PRESIDENT & HUMAN RIGHTS COMMISSIONER

DISCRIMINATION COMMISSIONER

HEALTH SERVICES COMMISSIONER

DISABILITY & COMMUNITY SERVICES COMMISSIONER

CHILDREN & YOUNG PEOPLE COMMISSIONER

PUBLIC ADVOCATE

VICTIMS OF CRIME COMMISSIONER

VICTIM SUPPORT ACT



Nautilus by Lynnice Keen



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The Nautilus has been a symbol of the ACT Human Rights Commission since its inception in 2005. For us, it symbolises: strength; balance; harmony; expansion; growth; protection and renewal.

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TRANSMITTAL CERTIFICATE



ACT HUMAN RIGHTS
COMMISSION

Mr Shane Rattenbury MLA
Minister for Justice and Consumer Affairs
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 2015 to 30 June 2016 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

ACT Human Rights Commission
President

31 October 2016



Commissioners, left to right: Karen Toohey, Jodie Griffiths-Cook, Helen Watchirs and John Hinchey



ACT HRC Staff at SpringOUT Fair Day and MLAs, Yvette Berry and Shane Rattenbury

B1: ORGANISATIONAL OVERVIEW

The ACT Human Rights Commission (the Commission) is an independent statutory agency established by the *Human Rights Commission Act 2005* (the HRC Act). The Commission is committed to: Protecting the rights of everyone in the ACT.

Structure of the Commission

As at 30 June 2016, the HRC Act provides for eight members of the Commission:

- The President of the Commission
- The Human Rights Commissioner
- The Discrimination Commissioner
- The Health Services Commissioner
- The Disability & Community Services Commissioner
- The Children & Young People Commissioner
- The Public Advocate
- The Victims of Crime Commissioner

From 1 April 2016 until 30 June 2016, these roles were held by four Commissioners:

- The role of President and Human Rights Commissioner was held by Dr Helen Watchirs
- The role of Discrimination Commissioner, Health Services Commissioner and Disability & Community Services Commissioner was held part time for three months by Mr Graeme Innes until (30 June 2016)
- The role of Children & Young People Commissioner and Public Advocate was held by Ms Gabrielle McKinnon (on a temporary basis from 1 April to 1 May 2016) and Ms Jodie Griffiths-Cook (from 2 May to 30 June 2016)
- The role of Victims of Crime Commissioner was held by Mr John Hinchey. The Victims of Crime Commissioner is also the Domestic Violence Project Coordinator (see *Domestic Violence Agencies Act 1986*).

The current structure of the Commission reflects substantial changes introduced by the *Protection of Rights (Services) Amendment Act 2016*, which came into effect on 1 April 2016.

Until 31 March 2016, the HRC Act established five members of the Commission:

- The Children & Young People Commissioner
- The Disability & Community Services Commissioner
- The Discrimination Commissioner
- The Health Services Commissioner
- The Human Rights Commissioner.

From 1 July 2015 until 31 March 2016 these roles were held by three Commissioners:

- The role of Children & Young People Commissioner was held by Mr Alasdair Roy
- The roles of Human Rights Commissioner & Discrimination Commissioner were held by Dr Helen Watchirs
- The roles of Health Services Commissioner, & Disability & Community Services Commissioner were held by Ms Mary Durkin.

Objects of the Human Rights Commission Act

Section 6 of the HRC Act (as amended from 1 April 2016) notes that the main object of the Act is to promote the human rights and welfare of people living in the ACT and that this is to be achieved by establishing a Commission that will:

- promote the provision of community education, information and advice in relation to human rights;
- identify and examine issues that affect the human rights and welfare of vulnerable groups in the community
- make recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community
- promote understanding and acceptance of and compliance with, the *Discrimination Act 1991* and the *Human Rights Act 2004* (HR Act)
- acknowledge, protect and promote the rights of victims
- promote the protection of children and young people and people with a disability from abuse and exploitation
- promote improvements in the provision of prescribed services and the rights of users of prescribed services
- promote an awareness of the rights and responsibilities of users and providers of services and provide an independent, fair and accessible process for the resolution of discrimination complaints and complaints between users and providers of prescribed services
- provide a process to encourage and assist users and providers of prescribed services to make improvements in the provision of services, particularly by encouraging and assisting service users and providers to contribute to the review and improvement of service quality
- foster community discussion and the provision of community education and information: about the HRC Act and related Acts; the operation of the Commission and procedures for making complaints.

‘Prescribed’ services are defined to mean:

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

Roles and functions of the Commission

The roles and functions of the Commission are established under section 14 of the HRC Act and include (as amended from 1 April 2016):

- encouraging the resolution of complaints made under the HRC Act and assisting in their resolution, by providing an independent, fair and accessible process for resolving the complaints
- encouraging and assisting users and providers of prescribed services to make improvements in the provision of services, particularly by encouraging and assisting service users and providers to contribute to the review and improvement of service quality
- encouraging and assisting people providing prescribed services and people engaging in conduct that may be complained about under the HRC Act, to develop and improve procedures for dealing with complaints
- identifying, inquiring into and reviewing issues relating to the matters that may be complained about under the HR Act
- exercising any other function given to the commission under the HRC Act or another Territory law.

Other Territory laws that give the Commission functions include the *Human Rights Act 2004*; the *Children and Young People Act 2008*; the *Corrections Management Act 2007*; the *Health Practitioners Regulation National Law (ACT) Act 2010*; the *Health Professionals Act 2004*; the *Health Records (Privacy and Access) Act 1997*; the *Mental Health Act 2015*; *Victims of Crime Act 1994* and *Victims of Crime (Financial Assistance) Act 2016*.

Additionally, each member of the Commission has specified functions relating to their particular area set out in the HRC Act.

Clients and stakeholders

The Commission has a broad range of clients and stakeholders, including:

- users of services for children and young people, disability services, health services, services for victims of crime and services for older people and their carers
- providers of services for children and young people, disability services, health services, services for victims of crime and services for older people
- public authorities and members of the public engaged with public authorities (as defined by the HRC Act)
- vulnerable people involved with statutory services such as mental health services, prison, youth justice, and child and youth protection services
- consumer, client and advocacy groups
- the ACT Government.

Additionally, each Commissioner maintains connections with agencies and individuals discharging similar functions in other jurisdictions:

- The President and Human Rights Commissioner and Discrimination Commissioner are members of the *Australian Council of Human Rights Authorities*
- The Children & Young People Commissioner and Public Advocate is a member of the *Australian Children Commissioners and Guardians* and the *Australian Guardians and Administrators Council*
- The Disability & Community Services Commissioner is a member of the *Australian and New Zealand Disability Services Commissioners*
- The Health Services Commissioner is a member of the *Australasian Health Complaints Commissioners*.

Organisational environment and relationship to other agencies

Section 16 of the HRC Act states that *'the Commission is not subject to the direction of anyone in relation to the exercise of a function under [the HRC Act] or a related Act...'* The only exception (as stated at section 17 of the HRC Act) is that *'the Minister may, in writing, direct the Commission to inquire into and report to the Minister in relation to a matter that can be complained about under the HRC Act'*.

The Commission is, however, not fully independent in relation to financial reporting and public sector management issues, as it is subject to the Justice and Community Safety Directorate (JACSD) in these areas. Additionally, the Commission is dependent on Shared Services ICT for information management and information technology support. The Commission is currently drafting a Governance and Corporate Support Protocol which is required under section 18A of the amended HRC Act.

Planning framework and direction setting mechanisms

Throughout the reporting period, overall direction setting for the Commission continued to be guided by the *ACT Human Rights Commission Strategic and Operations Plan 2015-2018*.

The 2015-2018 Strategic and Operations Plan articulates a vision for the Commission:

An ACT community in which rights are respected and promoted, responsibilities are understood, and access to quality services is protected.

The Plan also identifies a number of core values that underpin the work of the Commission:

- *Fairness and independence*
- *Respect and dignity*
- *Accessibility and responsiveness*
- *Learning and achievement.*

Additionally, the Plan outlines a number of strategies to allow the Commission to continue to improve service delivery in the areas of:

- community engagement
- complaints handling
- compliance
- policy and law reform
- accountability
- personal and professional development.

The amendments to the HRC Act require the President to prepare a draft Governance and Corporate Support Protocol that includes a three year strategic plan (section 18 A). The President must also, after consulting with the ACT community for eight weeks, prepare a Client Service Charter (section 18 B), as well as an Operations Protocol (section 18 C).

These key documents will be developed and published on the Commission's website in the 2016-2017 financial year.

B2: PERFORMANCE ANALYSIS

This section includes a statement from the Victims of Crime Commissioner – the performance analysis of the Commissioner and Victim Support for 2015-2016 is presented in a separate Annual Report.

The performance of each of the Commissioners is outlined below in the following order:

- The President
- The Victims of Crime Commissioner
- The Human Rights Commissioner
- The Discrimination Commissioner
- The Children & Young People Commissioner
- The Public Advocate
- The Disability & Community Services Commissioner
- The Health Services Commissioner.

The President

The role of the President was established following the restructure of the Commission, which took effect on 1 April 2016. Dr Helen Watchirs was appointed as the first President of the Commission.

Creation of the President role

The changes to the Commission and establishment of a President role followed a review of the ACT statutory rights protection agencies and community advocacy agencies, commenced by the ACT Government in May 2013, to consider options to strengthen the delivery of rights protection services to the ACT community. The ACT Government engaged the Nous Group to undertake the review, which on 30 January 2014 produced its report.

http://cdn.justice.act.gov.au/resources/uploads/JACS/PDF/Review_of_Protection_of_Rights_Services.pdf

The Nous Group recommended a new structure for the Commission with a President as head and two generic Commissioners to perform a range of statutory oversight functions. On 30 April 2015 the Attorney-General released a public discussion paper setting out a revised model to that recommended by the Nous Group.

http://justice.act.gov.au/protection_of_rights/rights_and_support

The ACT Government received 43 written submissions as well as representations made during stakeholder forums by the Commissioners, agency staff, legal and community organisations and the general community. In response to these submissions, The ACT Government revised the model that was set out in the discussion paper, in summary the revised model proposed:

- a hierarchy of Commissioners, with a President as Chief Executive of the Commission who is also the Human Rights Commissioner. Other Commissioners would be accountable to, but not supervised by, the President
- the Commissioners would work in an independent but collegiate manner
- the retention of designated Commissioner titles and functions, recognising the importance of having visible champions with a specific focus and expertise for vulnerable community groups
- moving complaints handling functions from the Children & Young People Commissioner to the Disability & Community Services Commissioner
- vesting responsibility in the President for leadership of overarching systemic advocacy requiring co-ordination or co-operation across the Commission
- introducing governance and decision making processes similar to those of the Australian Human Rights Commission (AHRC)
- a requirement for the Commission to produce a Corporate Support and Governance Protocol, Operations Protocol and a Client Service Charter following consultation with ACT Government and the ACT community.

In addition to the proposed new Commission, the Public Guardian functions previously located in the Public Advocate's office were proposed to be merged with the office of the Public Trustee.

On 27 October 2015 the Attorney-General, Simon Corbell MLA, announced The ACT Government's decision to establish a new Commission in accordance with this model. On 9 February 2016, the *Protection of Rights (Services) Legislation Amendment Bill 2015* was passed in the Legislative Assembly. The Bill created the position of President of the Commission and brought the Public Advocate and Victims of Crime Commissioner into the Commission. The Bill merged the Public Guardian functions into the Public Trustee.

The Commission now offers a full range of services including:

- independent complaint handling in relation to a range of service providers including discrimination matters
- community education and advice to government regarding human rights obligations
- advocacy for children, young people and adults experiencing vulnerability
- advocacy, information, therapeutic services and support to victims of crime.

Functions of the President

Under section 18 of the HRC Act, the President has the following functions:

- managing the administration of the Commission
- the efficient and effective financial management of the Commission's resources
- ensuring the Commission's functions are exercised in an orderly and prompt way
- developing a Governance and Corporate Support Protocol
- developing a Client Service Charter
- developing an Operations Protocol
- ensuring, as far as practicable, the Commission's functions are exercised in a way that takes into account and is consistent with, the Governance and Corporate Support Protocol, the Client Service Charter and the Operations Protocol
- reporting, or coordinating reporting, on behalf of the Commission
- promoting community discussion and providing community education and information, about: the HRC Act and related Acts; the operation of the Commission; and the procedures for making complaints
- advising the Minister about any matter in relation to the HRC Act or related Acts
- collecting information about the operation of the HRC Act and related Acts and publishing the information dealing with complaints about the operation of the Commission
- if the President considers that a Commissioner has a real or perceived conflict of interest in relation to a complaint, considering the complaint or allocating responsibility for consideration of the complaint to another Commissioner
- any other function given to the President under the HRC Act or another Territory law.

President's report

Human rights overarches all of the Commission's functions and our role is to enable everyone to live lives of dignity and value, especially persons experiencing vulnerability. Our mandate is to promote respect and protection of human rights by holding The ACT Government to account and building a human rights culture in the Canberra community.

During the period from 1 April to 30 June 2016 a key role of the President was to manage the transition of staff to a new organisational structure, bringing together the existing Commission with the Public Advocate, Victim Support ACT and the Victims of Crime Commissioner. The expansion of the Commission brings many opportunities and benefits for our clients and the community, with the combined expertise from the three agencies and increased range of services provided by the Commission, as well as opportunities to work more effectively and efficiently. It has been important to recognise the strengths and build on the existing positive cultures of these organisations, to create a dynamic and expanded Commission.

This period also involved planning for a relocation from separate offices to co-located premises on Level 2 in 11 Moore Street and having input into the refurbishment of this space to meet the needs of our clients and staff. Our new premises, which the Commission will occupy from 4 July 2016, provides enhanced facilities for interviews, counselling and conciliations as well as spaces for community education and training. There has been considerable work invested in developing a best practice approach to the management of information and records of the three offices, including compliance with privacy requirements. More work will occur in the next reporting period in relating to integrating three separate databases and websites of the three separate databases, (Sharepoint, Filemaker Pro and Access) and the websites of the three offices.

Informing the community about our new roles and premises has also been a strong focus of the President's team's work in this period, with a range of new brochures and information being developed and disseminated. The Commission also decided to refresh our Nautilus logo by commissioning Ngunnawal artist Lynnice Keen to produce the beautiful artwork which is featured in this Annual Report.

Another key task of the President's team has been to commence the development of the key documents required, covering the three year period (2016-2019): including the Governance and Corporate Support Protocol, in consultation with the Director-General of JACSD and an Operations Protocol, which details internal governance issues. During this period preparations were also commenced to conduct a consultation with the community about the Commission's new Client Services Charter. An eight week consultation period will begin in August 2016, with a survey on the *Your Say* website. These documents will be finalised in the 2016-2017 financial year.

Victims of Crime Commissioner

Moving Victim Support ACT and the Victims of Crime Commissioner into the Commission has benefits to victims of crime. It presents opportunities to improve service delivery by recognising that victims' rights are human rights. It creates an environment where traditional interpretations of what constitutes human rights can be constructively challenged and debated. It creates opportunities to build closer working relationships and understandings between individuals who work to uphold the human rights of all our citizens. It also provides opportunities to develop a more fulsome understanding of the content of human rights that will afford more comprehensive protection for victims.

Since amalgamating with the Commission on 1 April 2016, Victim Support ACT has worked closely with the Commission and to prepare for our co-location. We look forward to working collaboratively with our colleagues in the new Commission to strengthen the delivery of rights protection services to the ACT community.

For this reporting period, more detailed information about the performance of the Victims of Crime Commissioner and Victim Support ACT for 2015-2016 is presented in a separate Annual Report, Victim Support ACT Annual Report 2015-2016.

Human Rights & Discrimination Commissioner

In this reporting period the Commission has seen significant internal change following the implementation of the Attorney-General's long standing review of rights protection agencies.

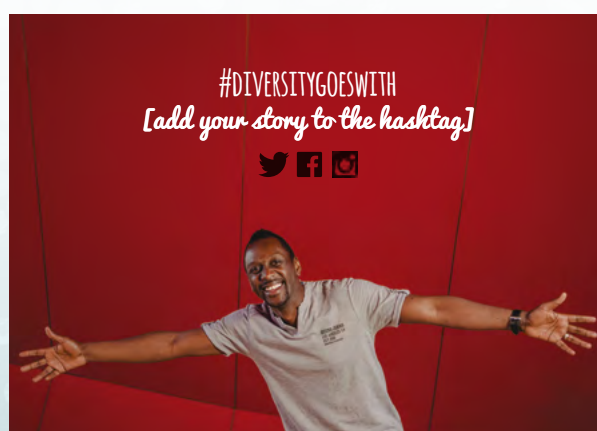
Until 1 April 2016, the role of Human Rights and Discrimination Commissioner combined the separate jurisdictions of discrimination and human rights. As discussed above, with commencement of amendments to the *Human Rights Commission Act 2005*, these roles changed. The role of President was established and is now combined with the role of Human Rights Commissioner. The Discrimination Commissioner role has now been combined with the Health Services, Disability & Community Services Commissioner.

Dr Helen Watchirs OAM was appointed on 1 April 2016 in the new role of President of the Commission and continues in the role of Human Rights Commissioner, which she was originally appointed to in 2004. Mr Graeme Innes AM was appointed on a three month part-time contract (from April 2016 until 30 June 2016) to assist with establishing the new role of Discrimination, Health Services, Disability & Community Services Commissioner. Ms Karen Toohey was ultimately permanently appointed to this role, to take up her position full-time on 4 July 2016.

Human Rights Commissioner

In relation to human rights, the Commissioner's role includes providing community education and information about human rights, reviewing the effect of ACT laws on human rights and advising the Attorney-General on the operation of the *Human Rights Act 2004* (HR Act). There is no jurisdiction to handle or consider complaints of human rights breaches and these can only be raised through legal proceedings. However, contact from individual members of the community about matters that impact on their rights gives the Commissioner important information that informs her systemic human rights work.

Other legislation contains powers affecting the Commissioner's jurisdiction, such as inspecting the adult prison under the *Corrections Management Act 2007* and Bimberi Youth Justice Centre. In the Commission's handling of discrimination complaints against public authorities, the Commissioner's process includes seeking specific information about how they have complied with their obligations to act consistently with relevant rights (such as the right to equality under section 8 of the HR Act) and taken into account human rights in their decision making.



'Diversity Goes with Our Territory' Campaign Champions: Bianca Elmir and Francis Owusu

Discrimination Commissioner

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

- disability
- race
- sex
- sexuality
- gender identity
- relationship status
- parent or carer status
- pregnancy
- breastfeeding
- religious or political conviction
- age
- industrial activity
- spent convictions
- profession, trade, occupation or calling
- association with a person with any of the above attributes.

The Commissioner also handles sexual harassment and vilification complaints and exemption applications.

Further protected attributes will come into force in April 2017 following the introduction of an amending Bill in June 2016 (see page 21 for information about the LRAC Review).

Highlights

The strategic focus of the Commissioner's team during the year included building stronger relationships with Aboriginal and Torres Strait community members and pursuing rights issues relevant to them, continuing to raise awareness of the *Human Rights Act 2004* (HR Act) amongst the legal profession and government employees and promoting law reform particularly in relation to human rights and discrimination law.



'Diversity Goes with Our Territory' Campaign Champions: Beck Kiting and Nick Kyrgios

Some of the major activities undertaken include:

- conducting the *'Diversity Goes With Our Territory'* campaign: an online and community campaign to promote racial diversity and anti-discrimination in the ACT launched on 16 November 2015
- celebrating the amendment of the HR Act to include the new section 27(2): an Aboriginal and Torres Strait Islander cultural right, following collaborative work with the ACT Government and the Aboriginal and Torres Strait Islander Elected Body. The amendment commenced on 26 February 2016
- in conjunction with the Aboriginal and Torres Strait Islander Women's Program at the Women's Legal Centre, developing a mobile friendly website with information on rights and interacting with the ACT Government launched on 15 March 2016. A wallet card version of the site was also created, in response to community requests
- celebrating International Human Rights Day on 9 December 2015 with a forum focussing on the rights of Aboriginal and Torres Strait Islander people
- working with the Law Reform Advisory Council and ACT Government on the implementation of amendments to the *Discrimination Act 1991*
- working with the Law Reform Advisory Council on a review of the *Guardianship and Management of Property Act 1994*
- working with the office of the Victims of Crime Commissioner to create resources aimed to increase awareness of the application of the Human Rights Act to victims of crime, launched on 11 March 2016
- formally appearing before the Royal Commission into Institutional Responses to Child Sexual Abuse on 3 July 2015
- working with sporting and community stakeholders to finalise draft Guidelines for best practice inclusion of transgender and intersex participants, to be launched by the end of 2016
- intervening to provide submissions on the application of human rights law to matters before the ACT Civil and Administrative Tribunal (ACAT) in *Wang v Australian Capital Territory [2016]*
- a range of outreach activities to members of the law society, law firms, community legal centres, Legal Aid ACT and law students about the HR Act
- attending two meetings of the Australian Council of Human Rights Authorities in Sydney in November 2015 and May 2016, to discuss areas of mutual interest with colleagues in other jurisdictions. The President was also selected to chair this body in May 2016
- Dr Helen Watchirs was nominated as a finalist in the ACT Australian of the Year, which was won nationally by the ACT winner, David Morrison AM.

Community and stakeholder engagement

The Commissioner has a statutory responsibility to provide education on the rights of people to be free from unlawful discrimination and sexual harassment under the Discrimination Act and to promote understanding of the provisions of the HR Act. This responsibility has been discharged through a combination of formal training, public awareness work and direct stakeholder engagement.

Formal training

The Commissioner's team organised and delivered 17 sessions of formal training to government, private sector and the broader community, which is a slight increase on last year despite, the significant impact of the organisational restructure on staff resources. The topics covered included:

- Discrimination, Harassment and Bullying
- The Human Rights Act in Litigation and Advocacy
- Disability Discrimination and Disability Awareness
- The Human Rights Act and Responsibilities of Public Authorities
- Workplace Contact Officer Training
- The Human Rights Act for the Community Sector.

Standard training on discrimination, harassment and bullying is provided free to individuals and the community sector with the assistance of pro bono solicitors from Clayton Utz. Tailored training was also available to all sectors on a fee for service basis, with a reduced fee for community sector organisations.

In July 2015, the Commissioner awarded Alison Playford, the Director-General of JACSD the E-learning Challenge '11 years in 11 Minutes' Award for the directorate with the most staff completing the Commission's short online course on the HR Act.

Figure 1 – Feedback received from training participants

The ACT Human Rights Act in Litigation and Advocacy

I just moved to the ACT – knew nothing about the Act or the process, so everything was very useful.

Useful analysis of recent cases.

Introduction to Discrimination, Harassment and Bullying

I enjoyed the information followed by case studies, to give perspective.

Very good presenters.

I have learned that all humans are equal and have the right to complain if they face discrimination.

The ACT Human Rights Act and Responsibilities of Public Authorities

Good stuff.

Very informative.

Disability Discrimination and Awareness

It was all good content that I can apply, not only to my job, but to everyday life.

Very helpful, thank you.

Workplace Contact Officer Training

I learned not to tell people what they should do, but advise what their options are.

It's been a while since my initial training, so a very useful refresh across all areas.

Great facilitator – she had great examples and kept the training interesting.

Role plays – as much as I dislike them, it was extremely helpful putting practices into play.



'Diversity Goes with Our Territory' Campaign Champions: Diana Abdel-Rahman and David Morrison

Diversity Goes With Our Territory

The Commission launched its '*Diversity Goes With Our Territory*' campaign on International Day of Tolerance, 16 November 2015 at the ACT Legislative Assembly with Minister Berry and the United Nations Information Centre. The campaign is a positively focussed social media campaign, designed to prevent racism and intolerance. The stand alone campaign website is at www.diversity.hrc.act.gov.au.

The campaign aims to promote diversity and reduce racism and other forms of discrimination in Canberra by:

- letting people know what to do if they see or experience some form of discrimination
- spreading good news stories about standing up against discrimination
- encouraging Canberra to embrace its cultural diversity and promote inclusion.

The campaign originally arose from discussions between ACT Policing and the Commission about engaging with the multicultural community and was informed by further consultation with members of the local Muslim community and participants at the Commission's 2015 Race Relations Roundtable. It was partly financed by JACSD, the Community Services Directorate (CSD) and ACT Policing who contributed \$18,000.

The campaign commenced with internal messaging and information for staff of ACT Policing, to raise awareness of discrimination law and the role of the Commission before the more public part of the campaign commenced.

In phase two, the public messaging component commenced around the slogan '*Diversity Goes With Our Territory*'. This part of the campaign utilises community champions to act as opinion leaders encouraging recognition of the benefits of an inclusive society. A group of 14 champions worked to spread campaign messages in a variety of media, through print materials, radio and newspaper, online videos and engagement with social media. Promotional postcards, t-shirts, posters and bags were produced and distributed at relevant community events, such as the Multicultural Festival.

The following individuals have appeared as campaign champions:

- Bianca Elmir (Muslim boxer)
- Francis Owusu (Community leader, CEO of dance troupe Kulture Break)
- Russell Taylor (Indigenous Leader)
- Rod Little (Indigenous Leader)
- Diane Abdul Ah-Rahmen (Muslim Leader)
- Omar Musa (Poet/Writer/Performer)
- Kelli Cole (Assistant Curator of ATSI Art at the National Gallery of Australia)
- Lt-Gen David Morrison (Australian of the Year)
- Mohammed Ali (Multicultural Awards Outstanding volunteer of the Year)
- Karen Middleton (Journalist)
- Bec Kiting (Canberra United player)
- Nick Kyrgios (Tennis player)
- Chris Woodthorpe (United Nations Information Centre)



'Diversity Goes with Our Territory' Campaign Champions: Kelli Cole and Mohammed Ali

Champions include majority leaders, prepared to stand up to challenge racism together, as equals. Research shows that racists are more likely to be influenced by mainstream leaders. The campaign received special commendation for the JACSD Director-General's Respect, Equity and Diversity Award.

The Commission will evaluate the impact of the first phase of this campaign late in 2016 before deciding how to continue with this work, for example extending it to other protected attributes such as disability or sexuality.

International Human Rights Day 2015

The Commission's annual event to commemorate International Human Rights Day was held on 9 December 2015 at the Canberra Museum and Gallery, in conjunction with Amnesty International. The event, entitled *"Global to Local: Working Together to Improve Human Rights for Aboriginal and Torres Strait Islander People"*, was opened with a smoking ceremony performed by Mr Billy Tompkins. Dr Watchirs chaired the forum and the speakers:

- Ms Kirstie Parker, CEO, National Centre for Indigenous Excellence
- Ms Traci Harris, ACT Women's Legal Centre
- Ms Yvette Berry MLA, Minister for Aboriginal and Torres Strait Islander Affairs
- Ms Nishara Fallon, ACT Branch President, Amnesty International

The forum discussed the ways in which our community can come together to improve Aboriginal and Torres Strait Islander rights, including in relation to Constitutional recognition, over-representation in the justice system, recognising cultural rights in human rights laws and race discrimination.

Anti-terrorism

On 27 April 2016, the President participated in a panel discussion organised by the Institute for Governance and Policy Analysis at the University of Canberra, entitled *'Fifteen Years on: Where to Next for Terrorism Laws?'*

The discussion was facilitated by Karen Middleton and other panellists were Dr Fergal Davis (UNSW) and Professor Gillian Triggs (President of the Australian Human Rights Commission). The panel explored the changes to Australian terrorism laws that were proposed by Council of Australian Governments (COAG) meetings in December 2015 and April 2016, relating to proposed longer periods of pre-charge preventative detention and post-sentence detention.

Other community engagement

In addition to this work, the Commissioners and/or their staff attended, or spoke at a number of forums, including:

- presenting the inaugural Human Rights Act E-Learning award to JACSD
- disability discrimination and awareness training for Marist College staff
- attending meetings and an (estimated type hearing) of the ACT Aboriginal and Torres Strait Islander Elected Body
- keynote speaker at the Clayton Utz 'Women in Law Breakfast', ANU
- panellist at a screening of *'Hunting Ground'* at National Film and Sound Archive with Women's Centre for Health Matters and the ANU
- participating in an ACT Law Week Panel on the impact of the HR Act with Naomi Gould (Canberra Community Law), Dr Laura Hilly (CCL Board member) and Vicki Parker (JACSD Deputy Director-General)
- participating in an ACT Law Week, *'Lessons for the Profession: challenging sexual harassment in the workplace'* with Barbara Deegan, Kavina Mistry and Emma Macdonald
- assisting JACSD to host an information and networking event on LGBTIQ awareness for JACSD staff, with Pride in Diversity
- speaking at a joint forum with ACT Disability & Aged Care Service (ADACAS) concerning the Commission's complaint process and the right to complain
- speaking at Forum Australia's seminar *'Refugees: Whose Rights? Who's Right?'* with Mohammed Ali, Amne Alrifai, Yvette Berry MLA and Veronica Wensing
- speaking at a Harmony Day forum for the Culturally and Linguistically Diverse (CALD) Network at the Department of Agriculture and Water Resources about diversity and eliminating discrimination and bias in the workplace
- speaking at the Canberra Interfaith Forum about human rights, to mark the International Day of Tolerance
- lectures for University of Canberra law students about workplace bullying and discrimination; and about human rights
- attendance at AIDS Action Council Springout Fair Day.
- presentations at the Australian Council of Human Rights Authorities Officers Conference on workplace bullying and

discrimination and rights protection for Aboriginal and Torres Strait Islanders

- speaking at the launch of JACSD Inclusion Statements and Action Plan for People with Disability
- appearing before the Social Inclusion Committee of Cabinet
- hosting the first ACT Network meeting on modern slavery and human trafficking in conjunction with the Freedom Partnership and the Women's Legal Centre
- speaking at an employment workshop for people from the South Sudanese community.

Developing working relationships with key stakeholders

During the reporting period, the Commissioner and her team undertook various outreach activities to engage and work cooperatively with stakeholders and target client groups. The Commissioner and staff maintain networks throughout key community organisations in various sectors.

In addition to engaging with a range of stakeholders, particularly those representing disadvantaged and socially isolated Canberrans and those groups representing individuals with attributes protected under the Discrimination Act, the Commissioner focused on particular areas during the year.

Aboriginal and Torres Strait Islander people

A key focus again in this reporting period was working with the Aboriginal and Torres Strait Islander community. In addition to the Commissioner's role as champion, under its Reconciliation Action Plan (RAP), she continued to work on capacity building and rights awareness with the Aboriginal and Torres Strait Islander community. This included: having a stall for NAIDOC at Yarramundi Reach, participating in the Sorry Day Walk and attending the JACSD Reconciliation Action Plan BBQ.

The Commissioner met with the Aboriginal and Torres Strait Islander Elected Body, to provide information about discrimination and human rights protections and appeared before its estimates type hearings in December 2015.

In March 2016 the Commission launched a new online legal toolkit for Aboriginal and Torres Strait Islander Peoples (at <http://deadlyadvice.hrc.act.gov.au/>). The toolkit was developed by the Commission and the Women's Legal Centre, in conjunction with the Aboriginal Legal Service and Care Inc (a financial counselling service). The web site provides information in four main areas: interaction with police; care and protection; financial matters and discrimination. Following feedback from the community, the Commission has also developed an accompanying wallet card version of this information.

The Commissioner also worked with the Aboriginal and Torres Strait Islander Elected Body and ACT Government to progress amendments to the HR Act to include a specific Aboriginal and Torres Strait Islander cultural rights, which came into effect on 26 February 2016. The Commission is now working with the Aboriginal and Torres Strait Islander Elected Body on launching an information sheet and public education campaign on the operation of the new section 27(2) of the HR Act relating to cultural rights. It is intended that this will be launched to coincide with the ninth anniversary of the *United Nations Declaration on the Rights of Indigenous Peoples* on 13 September 2016.

The Commission received a *Yogie Award* for its report *Passing the Message Stick*, from the ACT Youth Coalition. The award was accepted jointly by former Children & Young People Commissioner, Alasdair Roy and Dr Watchirs.

In this reporting period, the Commission was fortunate to have one Aboriginal employee on a temporary basis through the ACTPS Graduate Program. Following the recent restructure the Commission has also commenced an internal project seeking to identify ways to increase the number of Aboriginal and Torres Strait Islander employees across the organisation.

Multicultural community

Commission staff participated in various networks that build links with multicultural communities in Canberra. The Commission also repeated its annual presence at the Canberra Multicultural Festival and had a stall for the first time at the Canberra Eid al-Fitr Festival, to speak to members of the public and distribute information about the Commission's functions.

The Commission's work on the '*Diversity Goes with Our Territory*' campaign has been reported separately above. The Commission did not hold our annual race roundtable in this reporting period due to the resource pressures associated with the organisational restructure. The Commission is committed to continuing with this event in the next financial year, as bringing together a cross section of organisations and individuals from the multicultural and Aboriginal and Torres Strait Islander communities has been very valuable in the past.

People with disability

The Commissioner had meetings with the Director-General of CSD and Disability ACT, as well as disability Official Visitors and several non-government organisations, ranging from advocacy to service providers. The Commissioner also continued to advocate for an ACT Disability Justice Strategy as recommended by the Australian Human Rights Commission and implemented in other jurisdictions, such as South Australia.

Mr Innes, as acting Discrimination Commissioner, spoke at a forum held in conjunction with ADACAS concerning the Commission's complaint processes and the right to complain.

Dr Watchirs continues to serve as a member of the Organ and Tissue Authority Advisory Council and an Expert Advisory Group on Ethical Guidelines on Organ Transplant Protocols of the National Health and Medical Research Council. She also received the *Gift of Life Award* for Organ and Tissue Donation Awareness in the category of Policy Advocacy and Support (the Ben Wiseman Award) from the ACT Chief Minister on 30 November 2015.

Legal profession

The Commission has continued to engage with the legal profession through direct involvement in select matters before courts and tribunals, by providing training to members of the profession and by contributing to public discussion about the operation of human rights and discrimination legislation. Some highlights include articles written for professional publications *Ethos*, *Precedent* and *Human Rights Defender* (UNSW) and training on the HR Act provided to the ACT Bar Association and to community legal centres.

LGBTIQ communities

Commission staff met with representatives of the LGBTIQ Ministerial Advisory Council to discuss human right and discrimination related issues relevant to the Council's work. The Commission also held a stall at Fair Day, as part of the annual AIDS Action Council's Spring Out Festival.

Legislation was passed in October 2015 allowing men convicted of consensual homosexual acts in the ACT to apply to have historical convictions expunged. The Commissioner wrote to the Attorney-General in support of this scheme in 2014 following the Victorian, NSW and UK models.

The Commission's continuing work on inclusion for transgender and intersex participants in sport is discussed separately below.

Victims of crime and human rights

The ACT Victims of Crime Commissioner is now a member of the Commission, which has already provided a number of opportunities for improved collaborative work on the human rights of victims of crime in the ACT.

The Victims of Crime Commissioner and Human Rights Commissioner jointly launched a new *Guide to the Rights of Victims and Witnesses under the ACT Human Rights Act 2004* on 11 March 2016. Ms Jane Aeberhard-Hodges, an international human rights consultant and former Director for the Bureau for Gender Equality at the International Labour Organisation (ILO) was guest speaker at the launch. The guide was prepared to assist workers in the ACT justice sector understand the rights and obligations they should consider when assisting victims and witnesses. One of the keys objectives of this guide is to ensure there is understanding in the community that government agencies must act consistently with the rights of not just offenders, but witnesses and victims too. Many rights protected in the HR Act are relevant to witnesses and victims, including: rights to privacy; freedom from inhuman treatment; equality and protection of the family. In addition to the Human Rights Act protections, the *Victims of Crime Act 1994* clearly specifies principles for the treatment of victims of crime by all agencies involved in the administration of justice. Workers will be able to use information and checklists in the guide to review their policies and practices to ensure human rights are considered when dealing with victims of crime and witnesses in justice settings.

The Commission also hosted the first meeting of a new ACT network addressing modern slavery and human trafficking, in conjunction with Freedom Partnership (The Salvation Army) and the Women's Legal Centre. A number of smaller working groups were formed at this meeting to progress practical initiatives in these areas.

Media

During the reporting period, newspaper, radio and television media covered a number of the Commission's major events that are discussed above. These included: the *Diversity Goes With Our Territory* campaign; the *Priceless* report and the *Deadly Advice* website. The Diversity Goes with Our Territory campaign was covered by: The Canberra Times; The Chronicle; Her Canberra and local radio. The Commissioner and/or her staff also had a number of articles or opinion pieces published in the period on topical issues, including an opinion piece in *The Canberra Times* on the role of the HR Act in courts (27 July 2015). The Commissioner also appeared in media commenting on the following issues:

- proposed anti-consorting laws
- anti-terrorism laws and refugees
- domestic and family violence
- restructure of the Commission
- Aboriginal and Torres Strait Islander rights
- organ and tissue donation
- 'Diversity Goes With Our Territory' campaign
- sexual harassment
- Australian of the Year finalists
- immigration detention.

Resources

The Commissioner developed a range of new printed educative materials during the financial year and also made a range of these available in an electronic and accessible format online. These include: *Diversity Goes With Our Territory* campaign materials; *Deadly Advice* mobile friendly web site and wallet card; *Victims Guide* and a republished pocket sized HR Act containing the new section 27(2) cultural right and amended right to education.

These complement existing brochures on: human rights; sexual harassment; discrimination law including race; disability; gender identity and other protected attributes, which are also made available electronically. The Commissioner also has posters available promoting anti-racism and anti-sexual harassment messages. These have been circulated free of charge to a number of government and non-government organisations in Canberra and can also be downloaded from the Commission's website.

Legal and policy work

During the reporting period, the Commissioner provided input on a range of legal and policy issues relevant to her functions, including the following:

Amendments to the Human Rights Act 2004 - Aboriginal cultural right

On 11 February 2016, the ACT Legislative Assembly passed amendments to the HR Act to acknowledge that Aboriginal and Torres Strait Islander peoples hold distinct cultural rights and must not be denied the right to maintain, protect and develop their culture. The HR Act now recognises the relationship Indigenous Australians have with land, water and resources to which they have a traditional connection. These amendments were developed jointly by the Commission, the ACT Government and the Aboriginal and Torres Strait Islander Elected Body.

Separate amendments passed in the same Bill also strengthened the existing right to education by extending the public authority obligations to cover it, providing a potential avenue for direct judicial oversight.

Amendments to Discrimination Act 1991

The Commission welcomed the introduction of proposed amendments to the *Discrimination Act 1991* tabled in the ACT Legislative Assembly in June 2016. These ground breaking reforms increase the scope of the Discrimination Act and include new protected attributes that will provide additional safeguards against discrimination on the basis of a person's:

- status as a victim of domestic or family violence
- accommodation status
- employment status
- immigration status
- physical features.

The amendments will also introduce 'intersex status' as a stand alone attribute for the first time and will modernise the characterisation of a number of existing protected attributes.

The amendments also extend vilification protections to a larger group of people, so that people may complain about vilification on the grounds of their disability, religion or intersex status.

The reforms are a part of a series of recommendations made by the ACT Law Reform Advisory Council (LRAC) in a report made publicly available on 14 December 2015. The Commissioner is a member of LRAC and, as previously reported, had significant involvement in this review.

The Commission understands that the amendments introduced in this reporting period represent a first stage of reforms that respond to some of the 68 recommendations in the LRAC Report, across 25 areas for reform. Some key recommendations that are to be addressed in the next stage of reform include:

- introduction of an explicit duty to make reasonable adjustments to accommodate the needs of a person with any protected attribute
- introduction of a general positive duty to eliminate discrimination
- removal of specific exceptions in favour of a general limitations clause that operates as a 'justification defence'.

The Commission looks forward to working with the ACT Government in the next reporting period to progress the second stage of reforms.

Review of the Guardianship and Management of Property Act 1991

In July 2015 the Commission provided a detailed submission to the LRAC's review of Guardianship legislation in terms of consistency with human rights and in light of the UN *Convention of the Rights of Persons with Disabilities*. The Commission found that existing guardianship legislation was out of step with modern principles of supported decision making and that substitute decision making should become more limited to last resort circumstances. However, reform must be accompanied by community consultation and development of safeguards and planning to enable supported decision making to develop gradually along a continuum. This reform will have a profound impact on people with disabilities and carers and needs careful investment of time, support and resources for transition to ensure it is successfully achieved.

Criminal law

In June 2016 the Commission made a submission to JACSD's Proposals for a *model of consorting laws to target and disrupt serious and organised criminal activity in the Territory*. The model of laws proposed would allow the police to issue consorting warnings to persons convicted of a serious offence or members of a criminal group such as bikie gangs not to consort with each other, but also apply to court for a consorting warning where a person convicted of a serious offence or members of a criminal group is consorting with a person who is not a convicted offender or member of a criminal group.

The submission expressed strong opposition to this proposal on the grounds that it would unjustifiably limit the right to freedom of association, it would disproportionately affect vulnerable people and there were less restrictive ways to meet the objectives of tackling organised crime. The Canberra Times reported Dr Watchirs stating that "*Given their inherent unjustness and capacity to impact most heavily on marginalised and disadvantaged groups and individuals, it would be a profoundly retrogressive step for the ACT to re-introduce consorting offences onto its statute books.*" and that overly broad police powers were '*a profoundly retrogressive step for the ACT*'. Research by the NSW Ombudsman was evidence that there was a strong potential for misuse of laws against disadvantaged groups, such as Aboriginal and Torres Strait Islander people, which was counter to recent justice reinvestment and reform developments.

Participation in networks and advisory groups

The Commissioner is a member of the LRAC, which is currently conducting a review of guardianship legislation. In addition, the Commissioner and/or staff participated in Government working and reference groups in relation to and including:

- Restrictive Practices Oversight Working Group
- Supported Decision-Making Pilot Advisory Committee Group
- Justice reform
- Justice reinvestment
- Changes to sentencing legislation
- Refugee and Asylum seeker support services
- Domestic and family violence
- Modern slavery and human trafficking
- Australian Human Rights Commission, Supporting Working Parents project
- Australian Human Rights Commission, Willing to Work project: Employment Discrimination against Older Australians and People with Disability
- Restorative justice
- Mature Age Workers Roundtable
- Domestic Violence Prevention Council Extraordinary Meeting
- Review into System Level Responses to Family Violence in the ACT.

Human Rights Act interventions

The Commissioner provided submissions in one matter before the ACAT in the financial year, *Wang v Australian Capital Territory* [2016] ACAT 71, which is reported in detail below at page 26.

During the reporting period, ACAT also handed down a decision in one matter in which the Commissioner had previously made submissions in relation. In *the Matter of ER (Mental Health and Guardianship and Management of Property)* [2015] ACAT 73, ACAT found that ER, an individual who ACAT had previously found to lack capacity under guardianship law could not automatically be assumed to lack capacity to consent to psychiatric treatment orders. Instead, ER's capacity must be assessed on a case by case basis as required, particularly given capacity will fluctuate over time.

The Commissioner had made submissions on the interpretation of ACT law in light of the HR Act and international law including the Convention on the Rights of Persons with Disabilities, emphasising the presumption in international law that a person has capacity for all decisions and a person seeking to overturn that presumption bears the onus of doing so. Further, each decision affecting an individual's rights required its own assessment of capacity.

ACAT noted the Commission's submissions on human rights law reinforced common law principles. This decision confirmed that capacity must be determined on a decision by decision basis, is assessed on a spectrum and is not automatically negated because of a prior finding of loss of capacity for a different area of a person's life. The ACT has substantially amended its mental health legislation, which commenced in March 2016. Consistent with relevant human rights law, the new provisions place greater weight on a person's ability to consent and wishes regarding the treatment.

Corrections

The Commissioner continued her ongoing oversight function at the Alexander Maconochie Centre (AMC). The Commissioner does not have the jurisdiction to handle individual human rights complaints from detainees. Nonetheless, enquiries received from detainees, staff and visitors at the facility regarding discrimination or human rights matters are an important way for the Commissioner to be aware of issues at AMC and to inform her systematic oversight work. Enquiries outside jurisdiction are often referred to the ACT Ombudsman or the AMC Official Visitor, or other areas in the Commission, such as complaints or advocacy for vulnerable people.

Without an individual complaint handling power, the Commissioner is reliant on other agencies to be informed of complaint trends, in addition to her own observations made via visits and calls from detainees and their representatives.

During the reporting year the Commissioner commenced convening a regular meeting of oversight agencies including the ACT Ombudsman, Official Visitors and the Public Advocate (which merged with the Commission from 1 April 2016). The Commissioner has arranged that at the request of detainees, she will formally notify the Official Visitors of their concerns, to be discussed further at the Official Visitors' next regular visit to the AMC. The Commissioner will from time to time, with consent, also refer inquiries to the Ombudsman.

Since its opening, the Commissioner has raised concerns with the Minister for Justice and JACSD about a range of systemic human rights issues affecting detainees at the prison. As noted in the last Annual Report, the Commissioner continues to note many positive improvements concerning issues raised in previous years.

In April 2016, the Commission made a submission to the ACT Legislative Assembly Standing Committee on Justice and Community Safety's *Inquiry into the 2015 Auditor-General's Report on Rehabilitation of Male Detainees at the Alexander Maconochie Centre*. The Auditor General's 2015 report made the concerning finding that 'AMC planning for rehabilitation is ineffective as there is no rehabilitation planning framework, no evaluation framework and no finalised case management policy framework.' The Commission noted that the Auditor-General's findings were broadly consistent with findings in its own in the *2014 Human Rights Audit on the Conditions of Detention of Women at AMC* and reiterated the need for a structured day and 'purposeful activity', also noting some positive improvements since the 2014 women's audit such as the increasing number of women custodial officers. Furthermore, the submission recommended the introduction of an Inspectorate of Prisons to improve oversight, a recommendation that was first made in the Commission's 2007 Audit of Corrective Services. The Human Rights Commissioner and Victims of Crime Commissioner appeared and gave oral evidence before the Inquiry on 16 May 2016. The Victims of Crime Commissioner noted the importance of rehabilitation, so victims of crime can be better satisfied that what has happened to them is not going to happen to someone else.

Priceless: The Right to Education

On 28 October 2015, the Commissioner launched the report into her own motion consideration on the ACT Government charging international students to attend ACT public schools. The report, called *Priceless: The Right to Education*, considered the ACT Education and Training Directorate's (ETD) compliance with relevant discrimination and human rights law in charging international students to attend school. International students range from students who actively choose to enrol offshore and pay fees, after receiving 'marketing' information about the benefits of studying in ACT public schools, to those who enrol onshore and may not be provided with the same level of information about fee paying. These can include children and young people granted refugee status and those seeking asylum while living in Canberra.

The Commissioner instigated the Report after receiving information about the ETD's charging practices. The report documents a two year collaborative process between the Commission and ETD to better reflect their obligations under discrimination and human rights law. This included consulting with key stakeholders on the new policies and the announcement earlier in 2015 that dependents of post-graduate research students would be automatically fee-exempt.

The Commissioner applied the recently enacted right to education in the HR Act in measuring the legality of the ETD's charging practices and the Report was significantly informed by the United Nations Convention on the Rights of the Child including the right of all children to attend primary school for free. Since the Report was released, the right to education in the HR Act was strengthened in terms of enforcement, from 26 February, 2016.

Play by the Rules: Transgender and intersex participation in sport

The Commissioner has been a long-term participant and supporter of the 'Play By the Rules' project. This project provides information and online learning about how to respond to and prevent discrimination, harassment and child abuse in the sport and recreation industry. The project was established in 2001 as a partnership between the Australian Sports Commission and all State/Territory sport and recreation and anti-discrimination/child protection agencies. The Play by the Rules national manager is based at the Australian Sports Commission.

Related to this work, in recent years the Commissioner participated in a reference group on the ACT Government's Fair Go Sport project, which aimed to encourage inclusion in local sport and recreational activities. A survey conducted as part of that project demonstrates that there were barriers to transgender and intersex participation in sport.

In response, the Commission has prepared draft guidelines aimed at local sporting organisations to demonstrate the benefits of inclusion for sporting organisations and address some of the erroneous assumptions made about transgender and intersex participations.

The Commissioner has been consulting with intersex and transgender communities, local sporting organisations and clubs on the draft guidelines. Commission staff have also met with colleagues from Australian Human Rights Authorities and Pride in Diversity to consider ways in which this local work might fit with ongoing initiatives around sport and inclusion across Australia.

The Commission is continuing consultation on its draft guidelines for inclusion of transgender and intersex people in sport. ACT Sport and Recreation is hosted a targeted consultation with representatives of local and state sporting organisations. Final consultation targeting intersex and transgender community members will continue in the coming months, with the guidelines now anticipated for release late 2016.

Case Study: Disability discrimination in the provision of goods, services or facilities

A woman made a complaint of disability discrimination against a transport company which banned her from travel. The woman had experienced difficulties whilst using the transport which she attributed to her anxiety condition.

Although no formal conciliation was held, through assisted negotiation between the parties facilitated by the Commission, the transport company agreed to lift the ban on the woman travelling, re-instate the woman's loyalty program membership, and develop guidelines to assist staff in responding to any customer who experiences a panic attack.

Discrimination Act: Complaints handling

There were 345 discrimination related inquiries during the reporting period, a significant increase from the 191 recorded last year.

There were 214 human rights related enquiries recorded, which is also a very significant increase on the 53 recorded last year. While the Commissioner does not have the jurisdiction to handle human rights complaints, such inquiries are often relevant to her systemic, policy or litigation work.

Of the 345 discrimination enquiries, 251 were discrimination complaint related and another 81 were relevant to the Commissioner's functions, but not complaint related. The remaining 13 enquiries were outside the Commissioner's jurisdiction.

There were 91 new formal discrimination complaints lodged with the Commissioner during the reporting period. This is an increase from the 75 complaints last year when the Commissioner had the additional roles of Public Advocate and Public Guardian and a return to the comparable levels of complaints received in previous years.

Case Study: Disability discrimination in education

A parent complained that the high school they wished to enrol in rejected their child's application because the family lived outside the enrolment area. The parent alleged that when the school refused the child's enrolment application, it had not reasonably accommodated the child's disabilities. They claimed the school had not properly considered that this particular high school (including that the child's peers and friendship group from primary school were enrolled there), would assist with a successful transition from primary to high school - by minimising the distress to the child, and reducing the potential for stigmatisation relating to the child's disabilities.

The matter was resolved at conciliation with the young person being accepted into the requested school and a process for transition being agreed to between the parent and the school.

ACT Civil and Administrative Tribunal referrals

In the discrimination jurisdiction, the Commissioner's role is to consider and if appropriate, conciliate complaints. If the complainant is unhappy with the outcome of this process, they may elect to request the Commissioner to refer the matter to the ACT Civil and Administrative Tribunal (ACAT) for a binding decision in relation to the matter. Fifteen cases were referred during the reporting period to the ACAT, which is a significant increase on the six cases referred in the last reporting period.

There were two reported decisions in the discrimination jurisdiction in the ACAT this financial year. In *Kovac v Australian Croatian Club Limited* (No.2) [2016] ACAT 4, the Tribunal made a decision about the appropriate remedy for a complainant, following the Tribunal's 2014 decision that the Australian Croatian Club had discriminated against Mr Kovac by depriving him of membership of the Club on the basis of his political conviction. The Tribunal ordered the respondent to pay \$62,817 in special and general damages; to give a written undertaking not to repeat or continue to unlawfully discriminate against Mr Kovac; and to accept his application for full voting membership of the Club.

In *Wang v Australian Capital Territory* [2016] ACAT 71, the Tribunal revisited an interim 2015 decision that had found discrimination against Mr Wang on the grounds of race (specifically, national origin). The 2016 decision affirmed that direct and in the alternative indirect discrimination had occurred due to the ACT Government's Policy regulating the intake of medical internships into Canberra Hospital. This Policy relegated Dr Wang, as an overseas trained doctor, to the lowest priority category of intake for an internship, which meant in effect he was unable to meet the final requirement to practice as a medical practitioner in the ACT. This was despite having completed the Australian Medical Council examinations for recognition of his Chinese medical qualifications. In relation to indirect discrimination, the Tribunal found that ACT Government's justifications for the Policy – specifically, to align the ACT with a national approach of registration of overseas trained doctors and promote the viability of the ANU Medical School – could not be considered reasonable in the circumstances. Therefore, even if direct discrimination could not be established at law, the Policy unlawfully indirectly discriminated against Mr Wang.

The Commissioner had provided submissions in the 2015 hearing on the issue of reasonableness and relevance of the HR Act and was again invited to appear. In the 2016 hearing, the Commissioner made submissions on principles relating to awarding compensation. The Tribunal ordered that Mr Wang be considered on his merits for the next internship intake and receive \$40,000 in compensation for the anxiety, embarrassment and humiliation he had suffered by reason of the respondent's discriminatory conduct.

Case Study: Race discrimination in accommodation and provision of goods, services or facilities, and victimisation

A woman alleged that she was discriminated against on the ground of her race (being a member of a particular clan group) by her housing provider because of their refusal to communicate with her, and make arrangements for referrals to services as agreed. The woman also felt that her manager was victimising her after she made a discrimination complaint against the provider, and that a physical disability which she had disclosed to the provider was not being reasonably accommodated. The matter was resolved at conciliation with communication protocols being agreed to, clarification provided to the woman regarding the issue of an undeclared resident, and with further actions to be taken on referrals to appropriate services.

Complaint allegations by ground of discrimination

There were 169 allegations on 17 grounds in the 91 new discrimination complaints lodged in this period, which is an increase on last year.

Of the complaints lodged, the most common ground of discrimination was disability (31%), which is a slight decrease but comparable to trends in recent years. Race was the second most common ground of complaint (15%), followed by racial vilification (7%) and victimisation (5%). The increase in race related complaints which doubled from 12 to 25 allegations may reflect the Commission's ongoing strategic focus in this area, including its work on the 'Diversity Goes With Our Territory' campaign.

Table 1 – Complaint allegations by ground of discrimination

	2015-16	2015-16 %	2014-15	2014-15 %	2013-14	2013-14 %
Disability	52	31%	43	36%	46	35%
Race	25	15%	12	10%	20	15%
Vilified on ground of race	12	7%	4	3%	9	7%
Victimised	9	5%	11	9%	6	5%
Sexuality	8	5%	1	1%	4	3%
Religious conviction	7	4%	0	0%	2	2%
Sex	7	4%	3	3%	8	6%
Political conviction	6	4%	1	1%	1	1%
Sexual harassment	6	4%	6	5%	7	5%
Spent criminal conviction	5	3%	0	0%	0	0%
Status as a parent or carer	5	3%	3	3%	3	2%
Age	4	2%	6	5%	9	7%
Gender identity	4	2%	4	3%	1	1%
Vilified on grounds of sexuality	4	2%	7	6%	0	0%
Assistance animal	3	2%	2	2%	0	0%
Breastfeeding	3	2%	-	-	-	-
Profession, trade, occupation or calling	3	2%	1	1%	8	6%
Relationship status	2	1%	6	5%	1	1%
Association with a person who has an attribute listed above	1	1%	1	1%	1	1%
Industrial activity	1	1%	1	1%	4	3%
Pregnancy including potential pregnancy	1	1%	1	1%	3	2%
Vilified on grounds of gender identity	1	1%	2	2%	0	0%
Vilified on grounds of HIV/AIDS	0	0%	5	4%	0	0%
Total	169	100%	120	0%	133	100%

Case Study: Disability discrimination in employment and victimisation

A man alleged that he was discriminated against and victimised by his employer following a workplace injury. The man felt that he was pressured by his manager to stop treatment, return to his usual duties and that he did not have sufficient support in his workplace. The man also claimed that his employment was unfairly terminated when he had used all of his leave entitlements and that this happened soon after submitting a formal complaint about an alleged discriminatory comment that a co-worker made to him.

The complaint was resolved at conciliation with the man receiving an apology, a statement of service and compensation of \$10,000 for hurt, humiliation, and distress, in addition to monetary re-reimbursement for annual leave.

Complaint allegations by area of discrimination

Trends in complaints from the past few years have continued to grow with the area of provision of goods and services again being the highest area of complaint (46%), with employment being the second highest area (12%). Education was a more prominent area for complaint in this reporting period, along with access to premises following trends from the past few years. Please note that as with the grounds of a discrimination complaint, a single case can include multiple areas of public life.

Table 2 – Complaint allegations by area of discrimination

	2015-16	2015-16 %	2014-15	2014-15 %	2013-14	2013-14 %
Provision of goods, services or facilities	61	46%	37	39%	38	32%
Employment	16	12%	21	22%	32	27%
Education	12	9%	6	6%	8	7%
Access to premises	11	8%	11	12%	19	16%
Accommodation	8	6%	7	7%	10	9%
Clubs	6	5%	2	2%	1	1%
Unlawful advertising	6	5%	2	2%	0	0
Contract worker	4	3%	0	0%	2	2%
Request for information	3	2%	1	1%	2	2%
Professional trade or organisation	2	2%	2	2%	2	2%
Employment agency	2	2%	2	2%	0	0
Qualifying body	2	2%	1	1%	2	2%
Other (not relating otherwise to another area of public life)	0	0%	2	2%	0	0
Partnership	0	0%	0	0%	0	0
Vilification through public act (not relating otherwise to another area of public life)	0	0%	1	1%	0	0
Total	133	100%	95	100%	116	100%

Case Study: Disability discrimination in the provision of goods, services or facilities

A mother complained on behalf of her son that he was discriminated against on the ground of disability because he was not allowed to enter a pool during his school swimming carnival when the operator did not believe that the swimwear that he was wearing was suitable for managing possible incontinence.

The matter was resolved at conciliation with the operator agreeing to update the organisation's policy on incontinence management, and to include this information in its customer booking forms. The operator also agreed to develop and maintain a list of approved incontinence swimwear products to assist staff in applying the policy, to keep a stock of these products at the pool, and to provide details and training about the policy and organisational approach to managing incontinence to staff annually.

Complaints lodged by category of aggrieved person

The table below provides a breakdown by complainants who lodged complaints in this period. Traditionally fairly equal numbers of men and women have lodged complaints. In this reporting period, more women than men lodged complaints and there was also a notable increase in complaints made by people who identified as intersex.

Table 3 – Complaint allegations by category of aggrieved person

	2015-16	2015-16 %	2014-15	2014-15 %	2013-14	2013-14 %
Other/unknown/not disclosed	0	0%	1	1%	2	7%
Individual male	40	44%	44	59%	38	45%
Individual female	47	52%	26	35%	38	45%
Intersex	3	3%	0	0%	0	0%
Commissioner	1	1%	1	1%	2	2%
Transgender	0	0%	3	4%	0	0
Group	0	0%	0	0%	0	0%
Representative	0	0%	0	0%	0	0%
Total	91	100%	75	100%	84	100%

Complaints lodged by category of respondent

The two highest respondents to have complaints alleged against them are ACT Government entities (32%) and private sector organisations (24%).

Table 4 – Complaint allegations by category of respondent

	2015-16	2015-16 %	2014-15	2014-15 %	2013-14	2013-14 %
ACT Government department, agency or statutory authority	29	32%	16	21%	30	36%
Private enterprise	22	24%	31	41%	30	36%
Community organisation	12	13%	5	7%	6	7%
Education institution	5	5%	6	8%	6	7%
Individual male	5	5%	1	1%	6	7%
Recruitment agency	4	4%	2	3%	1	1%
Individual female	3	3%	1	1%	0	0
Correctional institution	2	2%	-	-	-	-
Club	1	1%	3	4%	0	0
Other	8	9%	0	0%	2	2%
Individual unknown gender	0	0%	8	11%	n/a	
Accommodation	0	0%	2	3%	3	4%
Total	91	100%	75	100%	24	100%

Case Study: Disability discrimination in employment, and employment agencies

A man complained on behalf of his son who has Downs' Syndrome (and for whom he has been appointed guardian) that he was discriminated against on the ground of his disability when his employment was terminated by his employer. The man also complained about the employment agency, as he felt that the employment agency had not adequately supported his son in negotiating with the employer as they had exited his son from their service some months before his employment was terminated, but nevertheless involved themselves in the termination process. The employment agency was a designated disability employment service provider.

The complaint was resolved in two separate conciliation processes with the employer agreeing to find alternative shifts for the son and also provide a written reference. The employment agency agreed to pay an amount of \$900 as a goodwill gesture and agreed to revise its procedures to ensure that guardians were adequately consulted and that exit procedures were improved.

Conciliations

During the reporting period, the Commissioner continued to focus on the role of providing a fair, impartial and accessible individual complaint handling process, primarily resolving disputes through conciliation. As the Commissioner is not an adjudicator or finder of fact, have focused resources on assisting parties to resolve complaints, bringing parties together as quickly as possible to discuss the issues raised. If the Commissioner is not able to assist parties to successfully resolve a complaint, the Commissioner may formally consider (or investigate) the allegations that are made in a complaint. This approach both respects the limits of our jurisdiction and is an efficient manner to deal with complaints, with 79% of the 29 attempted conciliations resulting in conciliated agreements, ie 23 cases, an increase from 59% in 2014-15 and 70% in 2013-14.

Table 5 – Conciliation

	2015-16	2015-16%	2014-15	2014-15 %	2013-14	2013-14 %
Agreement reached	23	79%	17	59%	33	70%
Agreement not reached	6	21%	12	41%	14	30%
Total	29	100%	29	100%	47	100%

Closed complaints

During this reporting period, 89 discrimination complaints were closed, an increase from the 66 complaints closed last reporting period. This reflects a return in complaint numbers to previous historically consistent levels.

8 cases were withdrawn by the complainant and 49 cases were closed without resolution (including because the Commissioner believed conciliation was unlikely to succeed, the decision-maker being a court or tribunal, was not a valid complaint or over two years old). The remaining 32 cases were in the Commissioner's opinion resolved, including through conciliation with the Commissioner.

Case Study: Disability discrimination in employment

A woman who was deaf alleged that she was discriminated against by a prospective employer because her job offer was withdrawn after a workplace assessment identified some adjustments that the woman would require. The employer sought to rely on the 'Information and Communication Technology' team's advice that one of the assessor's recommendations could not be met, even though the woman herself believed she could do the job without this adjustment, which she did not need to use in her current employment.

The case was resolved at conciliation with the employer providing the woman with an apology, an equivalent offer of employment to that which was originally offered, and financial compensation made up of \$11,000 for lost wages, as well as \$5000 for hurt, humiliation and distress. The employer also undertook to review the training provided to all staff about working with staff with diverse disability, and to staff involved in recruitment so as to ensure that they have relevant experience in relation to the particular disability that the employer is seeking to accommodate.

Duration of complaints from receipt to closure

The Commissioner's continuing focus on resolving complaints quickly is reflected in the duration of time of complaints from allocation to closure. 76% of complaints were resolved in 6 months or less and 94% complaints received were closed in under twelve months.

Table 6 – Duration of complaints from receipt to closure

	2015-16	2015-16 %	2014-15	2014-15 %	2013-14	2013-14 %
Within 0-3 months	42	47%	32	48%	29	33%
Within 3-6 months	26	29%	20	30%	43	49%
Within 6-12 months	16	18%	14	21%	16	18%
After 12 months	5	6%	0	0	0	0
Total	89	100%	66	100%	88	100%

Case Study: Race, political conviction and disability discrimination in accommodation and provision of goods, services or facilities

A man complained that he was being discriminated against on the ground of his race, political conviction and disability by a housing provider with whom he was seeking accommodation. The man felt that the length of time which he had been homeless for was an indicator of discrimination. The man identified himself as a member of a particular clan group, and had strong views about the way the housing provider asked people it provided services to about whether or not they identified as being of Aboriginal and Torres Strait Islander descent.

By the time the complaint was referred to conciliation, the man had accepted a property from the housing provider. However, at conciliation, the housing provider agreed to carry out work at the man's property including: replacement of carpet flooring; installation of a clothesline and repairs to lighting and the toilet seat. They also agreed to: arrange an occupational therapy assessment with a view to installing grab rails in the bathroom; lever taps and upgrading the heating, as well as putting in place a communication protocol to assist in transition should the housing provider allocate the man a new manager.

Exemption applications

The Commissioner received no new formal applications for exemptions under the *Discrimination Act 1991*.

In the last reporting period, the Commissioner granted extensions to previous exemptions held by BAE Systems Australia and Raytheon Australia, specifically exemptions from prohibitions on discrimination on the grounds of race relating to defence contracts concluded with the United States of America. Both exemptions will expire on 14 July 2017. The Commissioner continued to monitor reports from BAE Systems Australia and Raytheon Australia on compliance with their exemptions in this reporting period.

Case Study: Disability discrimination in the provision of goods, services or facilities

A man complained that he was discriminated against on the ground of his disability due to an initial refusal for him to travel on a bus because he was using a wheelchair. The man also claimed that over a period of years, buses which had been shown as accessible on the timetable were not in fact accessible, causing him much inconvenience including missed appointments.

The complaint was resolved at conciliation with an apology, \$1000 in compensation, and with the respondent agreeing to explore the feasibility of introducing a mobility device sticker scheme that would assist easy identification of the weight and size of mobility devices.

Case Study: Disability discrimination in the provision of goods, services or facilities

A man complained of disability discrimination after being told that he was not allowed to attend a bar unless he had a carer with him. The matter was resolved at conciliation with the operator of the bar agreeing that the man can attend the bar without a carer, and to provide agreed information to staff about the man's disability.

Discrimination, Health Services, Disability & Community Services Commissioner

Ms Mary Durkin ended her role as Health Services Commissioner on 31 March 2016. Attorney-General Simon Corbell recognised that Ms Durkin built a 'robust and fair health services complaints process and worked effectively across government and with Australian health regulators. She has been a fiercely independent oversight office holder promoting a high level of accountability in the provision of health, disability and older peoples' services in the territory'.

Mr Graeme Innes was appointed in April 2016, part-time on an interim basis to assist with the establishment of the new role of Discrimination, Health Services, Disability & Community Services Commissioner and to allow government to finalise an ongoing appointment to the office. Ms Karen Toohey was appointed to the role commencing on 4 July 2016.

During 2015-2016 the Commission's intake and complaint handling functions were consolidated within the Health Services Commissioner's team with the integration of the discrimination, health services, disability and community services responsibilities in one role. The Commissioner's team now handles enquiries and complaints regarding:

- discrimination
- health services
- older peoples services
- children and young peoples services and
- disability and community services.

This has enabled the Commission to streamline the process, ensure that matters that raise issues under multiple jurisdictions are handled in the most appropriate jurisdiction and to provide a strategic response to systemic issues that may arise in different jurisdictions, but relate to the same or similar issues or practices.

Where a matter is not able to be handled by the Commission because it is not within the Commission's jurisdiction, the person is provided with information about how else they may pursue their concerns, or referral to another agency or body that can assist them.

Where a matter can be handled by the Commission it has focused on providing a timely, flexible, accessible process that optimises opportunity for the parties to resolve matters through conciliation.

The Commission's intake team acts as first point of contact for phone, email and face-to-face enquiries across all of the Commission's complaint jurisdictions and this practice has been operating for some time before the Commission's restructure.

Table 1 – Enquiries and complaints received

	Enquiries	Complaints	CIC	AHPRA Notifictaions
Children & Young People	96	11	3	-
Disability	57	27	14	-
Discrimination	345	91	-	-
Health	528	365	19	159
Human Rights	214	-	-	-
Other	83	-	-	-
Older People	15	4	-	-
Victims of Crime Commissioner	1	-	-	-
The Commission	55	-	-	-
Total	1394	494	36	159

Health Services Commissioner

The intake team responded to 528 enquiries that raised health issues. This is an increase from 402 in the previous reporting period (a 31% increase). Of these, 85 converted to a formal complaint.

During the reporting period, the Commissioner received 365 complaints. This represents a 8% increase from the 336 matters received in the previous reporting period.

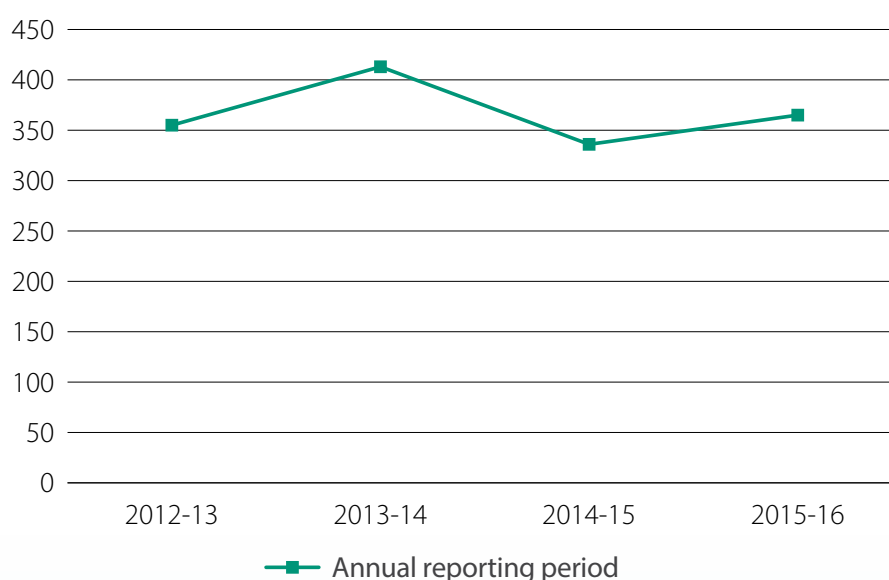
The 365 complaints comprised:

- 206 complaints were received by the Commissioner (up from 198, a 4% increase)
- 159 notifications that were sent to the Commissioner by the Australian Health Practitioner Regulation Agency on behalf of the various National Health Practitioner Boards (an increase of 28% from 124).

The Commissioner also received seven complaints from the Veterinary Surgeons Board of the ACT (a decrease by half from 14 in the previous year).

Seventeen complaints were flagged as raising issues that appeared relevant to the Commissioner's *Health Records (Privacy and Access) Act 1997* complaints jurisdiction, primarily complaints about access to records or privacy breaches.

Figure 1 – Health complaints received



Complaint issues

As with previous reporting periods, the issue of treatment (noted in 130 cases) was the most prevalent issue raised in complaints that were finalised. Communication was noted as an issue in 42 cases, professional conduct in 46 and medication in 43 matters.

Case Study

A woman complained that after undergoing surgery she developed hip pain which she attributed to the positioning of her legs during surgery. The Commission reviewed the woman's medical records, including diagnostic images. This material was subsequently referred for an informal clinical opinion. The independent reviewer was unable to account for a link between the positioning whilst in the operating room, and the changes seen on ultrasound or MRI. Further, the reviewer was unable to explain how the pain described could be caused by the changes seen on the images. Instead, the reviewer found that the changes seen on the images were consistent with age related changes commonly seen. Based on the advice of the reviewer, the Commission closed the complaint on the basis that the woman's claims were unable to be substantiated.

Complaints lodged with the Commissioner

Of the 206 health complaints lodged with the Commissioner, 73 matters related to ACT Health. The distribution of those complaints across the various service areas, was similar to the previous reporting period.

Table 1 – Complaints by area of the ACT Health 2015-16

	Number	%
Justice Health (including AMC dental)	25	34%
The Canberra Hospital	31	42%
Mental Health ACT	4	5%
Calvary (Public) Hospital	10	14%
Other	3	4%
Total	73	100%

The remaining complaints related to private sector organisations or individuals. Of the 110 instances in which individual providers were named in complaints made direct to the Commissioner, 81 (73%) related to medical practitioners, nine (8%) related to dental practitioners and ten (9%) related to nurses. The remainder related to low numbers from a range of professions.

Complaints received from/referred to health practitioner boards

The *Health Practitioner Regulation National Law (ACT)* requires the national boards for the registration and regulation of health practitioners to forward all notifications about health professionals in the ACT to the Commissioner. This is managed by the administrative body for the National Boards, the Australian Health Practitioner Regulation Agency (AHPRA). Similarly, the Commissioner notifies AHPRA about all complaints received about registered health practitioners.

During the reporting period, the Commissioner was forwarded 159 matters by AHPRA, an increase on the 124 matters received during the previous reporting period, plus an additional seven from the ACT Veterinary Surgeons Board. The Commissioner forwarded 38 matters (down from 52 in the 2014-2015 year) to AHPRA for an initial assessment or investigation.

Case Study: AHPRA

A woman said she took her child to a GP for immunisations and her child was administered the incorrect immunisation. She said the nurse identified the error and advised the woman and reported the incident to the prescribing GP. The woman was concerned that the practice did not have proper systems in place to prevent the nurse from making such an error. The nurse was referred to the Nursing and Midwifery Board of Australia and the matter was subsequently jointly considered by the Board and the Commission. Agreement was reached that the nurse's performance was below the expected standard and regulatory action was taken which included training in an immunisation course.

Joint consideration

The Commissioner is required under law to jointly consider with relevant health registration boards all decisions related to complaints about registered health professionals. The Commission has worked closely with AHPRA to further streamline the handling of matters received by the Commissioner and AHPRA regarding registered practitioners in the ACT. The Commissioner continues to refine its complaint handling process to reduce timeframes and complexity of the complaint process. An increased focus on offering parties the opportunity to resolve matters through conciliation has had a positive response from both complainants and respondents.

Joint consideration between the National Boards and the Commissioner occurred on a regular basis. The legislative structure around joint consideration requires the relevant Board and the Commissioner to endeavour to agree on a course of action in relation to individual practitioners. In cases where there is disagreement, the strongest view prevails.

The Commissioner jointly considered 421 matters with the national Boards, including 14 joint consideration decisions for immediate action. This compared to 571 matters during the previous reporting period, representing a 26% decrease. There are a range of factors that may contribute to this decrease in joint considerations including: improved triage processes leading to matters that are trivial or lacking in substance not proceeding to joint consideration; increased number of matters being handled by the Commissioner leading to conciliation; increased focus on comprehensive up front investigation reducing the number of joint consideration processes per matter.

Outcomes of joint consideration, which in some instances included multiple outcomes for individual practitioners, included:

- 12 referrals to ACAT for revocation of registration or consideration of professional misconduct (5 vet, 1 psychology, 4 medical and 2 nursing and midwifery);
- 2 suspension processes (1 pharmacy and 1 nursing and midwifery)
- 4 referrals to performance and professional standards panels (2 medical, 2 nursing and midwifery)
- 2 referrals for a performance assessment (1 medical and 1 nursing and midwifery)
- 20 referrals for health assessments (7 nursing, midwifery, 6 medical, 1 dental, 2 pharmacy and 4 psychology)
- 12 processes in relation to the imposition of conditions (6 nursing and midwifery, 6 medical)
- 51 caution processes (21 medical, 7 nursing and midwifery, 7 dental, 13 pharmacy, 3 psychology)
- 6 undertakings (1 medical, 2 nursing and midwifery, 2 pharmacy and 1 psychology)

The National Law provides for a 'show cause' process and there are occasions where that process has resulted in a change in the original decision or proposed action.

Veterinarian matters

Another category of health professional that comes under the Commissioner's jurisdiction is veterinary surgeons. As with other regulated health professionals, the Commissioner and the Veterinary Surgeons Board jointly consider complaints about veterinarians.

The Commission received seven new veterinary cases during the reporting period. A total of 15 cases were closed, which included nine cases which had been received in previous financial years.

Case Study

A woman took her two kittens to the vet to be de-sexed. She said the vet advised her that the kittens were due to be vaccinated which she subsequently learnt was not correct. The woman was concerned about the unnecessary expense and the possible risk to the kittens from the unnecessary vaccination. The woman also complained that she was contacted by the practice and asked to bring the kittens back for suture removal following de-sexing. She said this was also incorrect as the kittens did not have any sutures from the procedure. During the Veterinary Board's consideration, the vet responded to the complaint and explained that he had provided information in relation to the usual vaccination schedule for cats, but was unaware at the time that the woman had been provided with conflicting information from another vet. He said that the woman signed a consent form which clearly outlined the vaccination schedule and associated costs. The vet acknowledged that the woman was incorrectly advised about the need for suture removal and provided the woman an apology. The vet explained that the purpose of the follow up consultation was to examine the wounds following the de-sexing and this was a free check-up. The matter was jointly considered and agreement was reached between the Board and the Commissioner that the vet did not breach the standards of practice and that no further action was necessary.

Commission-initiated matters

Commission-initiated considerations are commenced by the Commissioner where there may be concerns of a systemic nature: where the Commissioner has received a number of complaints or notifications about a particular practice or organisation; where a complaint to the Commission is made anonymously; where the person does not have personal standing, involvement or authority to make a complaint or where the community raises a particular issue, such as through media publications. In these circumstances, the Commission becomes the complainant and the matters are investigated as a complaint.

In the reporting period, the Commissioner decided to commence a total of 19 Commission-initiated considerations. 12 of those 19 matters were closed, while seven remain ongoing and continue to be investigated. The Commissioner closed a total of 20 Commission-initiated considerations in the reporting period, eight of which were commenced in prior reporting periods.

While a number of Commission-initiated considerations are discussed elsewhere in this report, the Commissioner also completed long-term projects in this category during the reporting period.

- The Commissioner wrote to the Health Directorate with a range of observations and suggestions for how it might improve services to Aboriginal and Torres Strait Islander women and children at the Centenary Hospital for Women and Children.
- The Commissioner wrote, in conjunction with the Children & Young People Commissioner, to relevant Directorates on their joint consideration of *Children and Young People with Complex Needs in the Criminal Justice System: Criminal justice responses to mental health conditions, cognitive disability, drug and alcohol disorders and childhood trauma*.

Some of the concerns and outcomes for Commission-initiated considerations included:

- an aged care facility improved its procedures in relation to management of catheterisations and escalation of concerns in catheter care
- restrictive practices used in health settings was reviewed in the context of managing concerns and risks for falls and recommendations for changes in practice and policy were made
- a hospital, nursing home and ambulance transfer service were reminded of their obligations to facilitate discharge planning within suitable time frames and to ensure information is adequately communicated across the services.

Conciliation

Health service matters may be resolved informally through discussion with the parties during the complaint handling process or referred, as required by the legislation, formally for conciliation. Outcomes of the conciliation process may include an apology or statement of regret, explanation of services provided, acknowledgement of issues with service delivery or changes to a service provider's policies and procedures for improved quality of service delivery. Parties are also able to negotiate financial outcomes for reimbursement of costs incurred, associated future medical costs, compensation for economic and non-economic loss and/or damage.

Case Study

A woman experienced diabetic ketoacidosis after abdominal surgery at a hospital. The concerns raised related to the hospital's failure to recognise the woman's condition as an insulin-dependent diabetic and subsequent management of the woman's recovery. The complaint was investigated and independent clinical advice was sought, which found that the hospital's practices relating to record keeping and communication between members of the treating team could improve. The woman and the hospital attended conciliation and reached a negotiated agreement, including acknowledgement of concerns, strategies for service improvement, and a financial outcome.

Case Study

A woman complained about treatment she received for her fractured arm. She stated that she was not treated adequately when she presented with the fracture and that a wound had developed following poor application of the cast. She was concerned that the wound was caused by poor treatment and that the fracture had not healed appropriately. As a result of delayed recovery, she saw a specialist who stated the bone was not showing signs of healing and that she would need further surgery. The matter was investigated and referred to conciliation. The parties reached a number of agreements to resolve the complainant's concerns about her care.

Case Study: Billing dispute

A man complained that he was mistakenly sent a payment plan from his specialist, which included a paragraph about the use of debt collectors, and that legal action would be taken in the event of non-payment. The man found the nature of the letter to be threatening, and elected to have surgery elsewhere. He lodged a complaint with the Health Services Commissioner, seeking an apology. The service provider offered an apology and explained how this complaint would be used to improve the clinic's customer service practices for the future. The man was satisfied with the outcome and the matter was finalised.

Satisfaction with complaint handling process

The Commission measures satisfaction with its services by requesting that the parties complete an evaluation form on the closure of complaints. High levels of satisfaction with the Commission's services are outlined elsewhere in this Report. Comments from respondents in relation to health services included:

- *I found it was an excellent opportunity for self reflection and to challenge our practices*
- *The case officer handled my complaint thoroughly, delicately and professionally*
- *The ACT Health Services Commissioner acted as a mediator – they were unbiased and made an informed decision*
- *Thank you for your time and effort on this matter. Your agency has been very helpful*
- *Opportunity to raise concerns in a formal way*
- *We welcome any process which contributes to scrutiny of our services and processes which may lead to quality improvements*
- *Assistance to remind doctors of their documentation requirements*
- *I received an apology from the consultant. I am extremely satisfied with your assistance to me.*

Health records: Privacy and access issues

Health records in court and tribunal proceedings

The Commissioner noted concerns in previous reporting periods about inappropriate access to people's personal health information in court and tribunal proceedings, particularly through the issuing of subpoenas. Information that individuals think has been provided to their doctor in private can be produced in the public domain without necessarily obtaining the person's prior consent. The Commissioner completed a report on this issue during the reporting period and provided it to the Attorney General for tabling in the ACT Legislative Assembly. The report, *Protecting Privacy of Personal Health Information in Court or Tribunal proceedings*, was tabled in the Assembly in February 2016.

The Commissioner recommended that the JACSD undertake consultations with relevant stakeholders to progress reforms in this area. The Report made suggestions for options to be canvassed in those consultations, with the aim of protecting personal health information whilst also protecting the inherent values of the justice system. The Commissioner considered that reforms could be implemented without jeopardising lawyers' ability to appropriately test evidence in court, or impacting on the independence of courts and tribunals to publish decisions in accordance with the interests of open justice.

Legislative amendments

As noted in the previous reporting period, the Commissioner wrote to ACT Health recommending a number of amendments to the *Health Records Privacy and Access Act 1997* to ensure that the spirit of the legislation is effectively reflected in the Act. The Commissioner met with ACT Health officials to discuss the proposed changes during the last reporting period and again in the current year, to seek progress on the recommendations.

While not all of the Commissioner's recommendations were advanced, some significant concerns were addressed in legislation passed during the current reporting period. The Commissioner worked with ACT Health and the Parliamentary Counsel on the drafting of the provisions. The Act was updated so that the rights of children and young people are better reflected in the provisions and complexities in drafting have been simplified so that providers are better able to understand their obligations.

External liaison and community engagement

Over the year the Commissioner continued to engage with a range of stakeholders, including executives in the ACT Health and with the Minister's Health Adviser. Meetings were also held with advocacy organisations and specific service providers.

The Commissioner and staff participated in a small number of activities to explain the functions of the Commissioner's office during the reporting period. These included the following targeted training and community engagement activities:

- Lecture to ANU Medical School students on complaints involving health professionals
- Canberra Conversation on Winnunga Nimmityjah health services
- Participation in the Mental Health Expo
- Community engagement activities at Civic, Kippax, Gungahlin and Tuggeranong libraries
- Health Records Act training
- Quality in Health Care Awards
- Radio interviews on the role of Health Services Commissioner
- Presentation to the Health Care Consumers Association
- Hepatitis ACT Annual General Meeting.

As in previous years, the Commissioner attended meetings with national and New Zealand counterparts. The Commissioner hosted one of these meetings in Canberra during the reporting period. These meetings continue to provide a valuable opportunity for the Commissioner to discuss issues with other regulatory bodies that undertake similar work to the Commissioner. They also enable the Commissioners to contribute to national debates in relation to the oversight and provision of health services. The meeting in the ACT also provided an opportunity for the Commissioner to convene an auxiliary meeting with the Chairs of the National Regulation Boards, the CEO and management of AHPRA and other national Commissioners. This is discussed elsewhere in this report.

Other engagement undertaken by the Commissioner included:

- meeting with the Canberra Hospital Ethics Committee to discuss emerging issues
- site visits to Winnunga Nimmityjah Health Service: The Canberra Hospital Emergency Day Surgery wards; Calvary Maternity ward; the Alexander Maconochie Centre and Brian Hennessy Rehabilitation Centre
- meeting with the ACT Ambulance Service to discuss national registration of paramedics: Do Not Resuscitate Orders for children and young people; the sharing of health information with directorates, law enforcement agencies and the courts and issues associated with the proposed Secure Mental Health Unit
- meetings with the Veterinary Surgeons Board and other stakeholders to develop new standards for veterinarians
- meetings with Health Care Consumers Association
- meetings with the Catholic Education Office regarding access to school counsellors' files
- discussions with Nursing and Midwifery Federation regarding medication management at the AMC
- meetings with the National Capital Health Network on a range of issues
- meeting with The Canberra Hospital Emergency Department, regarding sharing of personal health information
- discussions with the ACT Chief Psychiatrist on issues associated with the transfer of custody when detainees are taken from the AMC to in-patient mental health services
- meeting with Corrective Services regarding the provisions of its Escort Policy when detainees are taken from the AMC to external health services.

Strategic work

The Commissioner contributed to policy debates through meetings and submissions. As well as substantial work on a number of specific initiatives discussed above and throughout this reporting period, comments were provided on a range of other matters, including:

- red tape reduction legislation and complaints regarding veterinary surgeons
- amendments to Powers of Attorney legislation
- consultations on proposals to amend certificates from general practitioners regarding fitness to work
- proposals to change processes in the Emergency Services Agency's call centre
- freedom of Information legislation and its interaction with the *Health Records (Privacy and Access) Act 1997*
- mental Health Facilities Management legislative proposals
- new *Mental Health (Care and Treatment) Act 2015*
- submissions to ACT Health on policies regarding restraint and consent to treatment
- the *Health Patient Privacy Amendment Act 2015* to introduce exclusions zones around facilities providing terminations
- advice to the JACSD on the Austroads National Data Linkage Project and reporting on health information.

Regulation of health practitioners

Three year review of the National Registration and Accreditation Scheme

As indicated in the previous reporting period, the Commissioner was a member of a subcommittee established by national commissioners to develop a submission to the three year review of the National Registration and Accreditation Scheme for health professionals. The review was conducted by Mr Kim Snowball at the request of the Australian Health Ministers' Advisory Council.

The submission (signed by five of the national Commissioners) argued that the review should head in the direction of co-regulation to address issues of transparency and accountability when Boards are making decisions about their own practitioners.

The review report was released during the current reporting period. While the report considered that progressing to a co-regulatory model may be premature, a number of recommendations were made to seek to enhance consumers' experiences with the complaint handling system administered by AHPRA and the Boards. As noted earlier, the Commissioner hosted a meeting of national Commissioners, with representatives from the Boards and AHPRA, in Canberra on 16 October 2015. The meeting focused on ways that the recommendations from the review might best be implemented and initiatives that were already underway.

Regulation of veterinary surgeons

The Commissioner also has jurisdiction for veterinary surgeons. As with other regulated health professionals, the Commissioner and the Veterinarian Surgeons Board jointly consider complaints about veterinarians.

During the previous reporting period, the regulation of veterinary surgeons was overhauled, with the repeal of the *Health Professionals Act 2004* and the introduction of a Veterinary Surgeons Bill to deal specifically with veterinarian matters. The legislation commenced in the current reporting period.

Unregistered health practitioners

As reported in a number of previous Annual Reports, consultations on a national proposal to increase the options for dealing with people who provide health services but who do not come within the national scheme for the regulation of health professionals (and who cannot therefore be deregistered), have been protracted. During the last reporting period, Commonwealth and State Health Ministers determined to implement a scheme that would see the adoption of a national Code of Conduct, which would provide Health Complaints Commissioners with increased powers to take action against practitioners who deviate from the Code's standards. The decision foreshadowed implementation by 2017. The Commissioner continued to urge during the current reporting period for this legislation to be progressed in the ACT.

Work continues to progress the implementation of the code and legislative framework to implement the code in the ACT and provide the Commissioner with powers to investigate and where appropriate take regulatory action regarding unregistered health service providers.

Psychologists and mandatory reporting of child abuse allegations

The Commissioner had written to the ACT Government, as noted in Annual Reports since 2010-11, seeking that psychologists be included in the list of professions that are obliged to report allegations of child abuse under the *Children and Young People Act 2008*. The original letter stemmed from a complaint in which a psychologist failed to report child abuse allegations. The Commissioner was pleased to see that legislation was passed during the current reporting period to make psychologists subject to mandatory reporting requirements.

Disability & Community Services Commissioner

The Disability & Community Services Commissioner has responsibility for exercising functions for the Commission in relation to disability services and services for older people provided in the ACT. The Commissioner also has responsibility for handling complaints about services for older people, disability services and, from 1 April 2016, services for children and young people in the ACT.

Disability services

In 2016-2017 the Commissioner will continue a proactive community engagement program, to raise the profile of the Commission as a complaint handling body in these specific areas of service delivery and to inform people of the Commissioner's role. It is important to ensure that community members are aware of their rights under the legislation to build community capacity for self advocacy as well as providing a formal mechanism for redress through the Commission's complaint handling processes.

Complaints received in relation to disability services increased from those received in the previous reporting period. The higher number of complaints was not statistically significant and the reasons for the increase could be varied. The concern held by many people with a disability, that they will experience repercussions from complaining, is a difficult issue to address. It will be a focus for the Commission in the 2016-2017 year to build community confidence in available complaint mechanisms by working with community organisations, advocates and other regulators and complaint handling bodies to ensure people are equipped with information to enable effective self advocacy as well as information about referral paths and formal complaint mechanisms.

It is to be hoped that the greater choice and control provided to people with a disability under the National Disability Insurance Scheme (NDIS) may lead to greater preparedness to use available services and complaint mechanisms as individuals exercise choice over how and where their funding is spent.

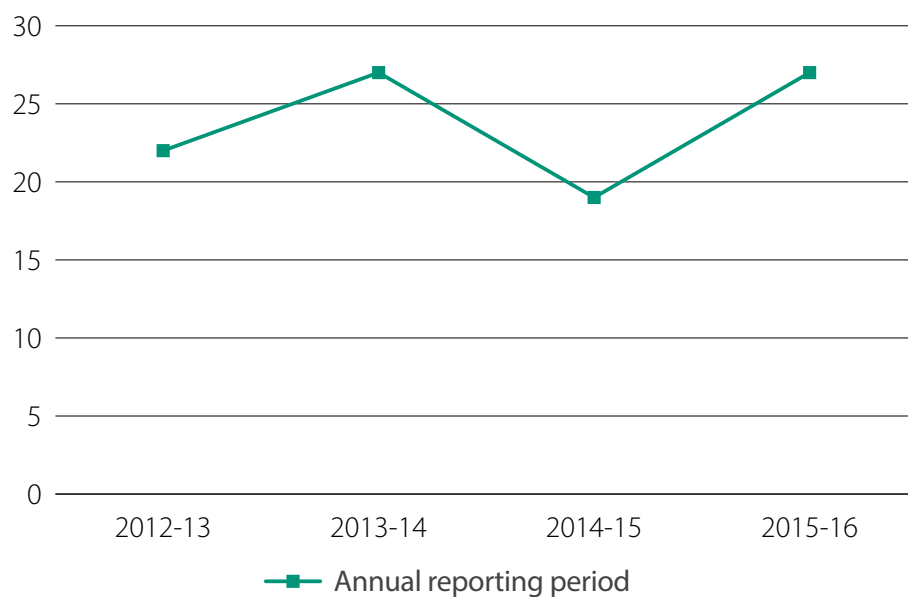
2015-2016 Complaints and enquiries

The Commission's focus in complaint handling is on supporting parties to resolve complaints informally where possible. This may be through facilitating communication and explanation between the parties, or may be through active assistance in providing alternative dispute resolution and conciliation interventions.

Complaints made to the Commissioner increased in the reporting period after a decrease in complaints in the previous year. The Commission received 57 enquiries regarding delivery of services to people with a disability and/or their carers. There was an increase in the number of complaints received, 27 in 2015-2016, compared with 19 complaints in the previous reporting period, representing a 47% increase.

Of the 27 complaints received in this reporting period, 19 were about community sector providers and eight related to government providers (across three directorates). The Commissioner initiated 12 complaints and 15 were received from the community members. Two complaints were referred to other community agencies for advocacy and other supports.

Figure 2 – Disability complaints received



Case Study

A client of an agency supported group home sustained a fracture which resulted in a loss of mobility and change in behaviour. The Commissioner was contacted by a third party who raised concerns about:

- exacerbation of pain during the provision of personal care
- inadequate nutrition
- lack of communication
- possible secondary fracture
- possible over-medication
- possible depression.

The Commissioner initiated a complaint into the matter and concluded the investigation after the following actions:

1. Further x-rays to investigate and determine if there was a secondary injury
2. Access to further rehabilitation
3. Assessment of physical transfers and the development of picture guides to assist staff in their daily transfers
4. The development of a behaviour intervention support plan
5. Access to the service providers and a speech pathologist to assist the client with communication.

Trends and themes

The major themes and trends in relation to complaints were access to personal care or other support services (37%), conduct issues (18%), appropriate financial management (11%) and advocacy services for people with a disability (11%). Other matters where the Commissioner's team assisted in resolving concerns included reviewing the appropriateness of accommodation, ensuring a person had access to proper equipment and ensuring support staff were recruited and inducted in line with agency standards and appropriate training to address the needs of the person.

The conduct matters included issues around staff behaviour and performance, including allegations of neglect and abuse and concerns about the use of restrictive practices within a supported accommodation setting.

Outcomes

During the reporting period the Commissioner's team finalised 18 complaints. The Commissioner encourages providers and complainants to resolve matters themselves where appropriate but also informally assists the parties to resolve matters. Complaint outcomes achieved in the reporting period include:

- referral to an advocacy organisation to finalise the steps for a complainant to have a companion dog in their residence
- assisting a complainant to access appropriate respite services
- referring a matter of alleged abuse to the Australian Federal Police (AFP) for further investigation and ensuring the exclusion of the worker from the person's home
- assisting a complainant to access information in relation to their finances
- ensuring an agency conducted the appropriate background checks for disability support workers, including ensuring the workers underwent a Working With Vulnerable People check
- assisting an organisation to ensure HR Act compliance within their resident guide
- making a range of recommendations regarding services provided to residents of a group home, including: implementing personal support plans; ensuring proper induction and training for staff; ensuring residents have access to appropriate equipment; ensuring repairs to a home were done in a timely and least disruptive manner and working with agencies around dignity of risk and duty of care.

Case Study

The Commissioner was advised of a concern by an advocate, regarding an unexpected death of a person who lived in supported accommodation and apparently died within a short time of being admitted to hospital.

The Commissioner reviewed information from various sources including but not limited to: the Coroner's report; the person's health notes and incident reports; the agency's policies and procedures, and statements from the agencies involved.

The matter was considered by the Commissioner and the matter was finalised on the basis that the Commissioner was satisfied the care provided by the agency was not unreasonable in the circumstances and did not contribute to the person's death.

Satisfaction levels

The Commission measures satisfaction with its services by requesting that the parties complete an evaluation form on the closure of complaints. The feedback from 2015-2016 was that people were satisfied with the manner in which their complaint was handled and that people indicated that they understood the reasons for closing complaints. People stated that they would recommend the Commission complaint handling process to other people.

Case Study

The guardian for a woman with cerebral palsy, anxiety, depression, panic attacks (which can also turn into seizure), and chronic pain submitted a complaint about a housing organisation. The guardian applied to the housing organisation to have a Mind Dog approved for the woman, but this was rejected on two occasions. A guardian provided the housing organisation with medical reports from the woman's GP supporting the woman's application to have a Mind Dog.

The Commissioner pursued the matter with the housing organisation and an agreement was reached that a Mind Dog would be accepted. The matter was referred to ADACAS, who were assisting with the final stages of the contract about the Mind Dog.

Working partnerships with key stakeholders

The Commissioner met regularly with executives from CSD, JACSD and ETD as well as with service providers, advocacy organisations, the National Disability Insurance Agency, peak bodies and the Official Visitors for disability services.

The Commissioner continued to work with the community sector in relation to crisis services for women with disability experiencing domestic violence and sexual assault. The Commissioner is a member of a steering committee which examines best practice in relation to crisis response to domestic violence and sexual assault for women with disabilities.

The Commissioner Initiated Consideration process allows the Commissioner to approach systemic issues in a strategic manner without reliance on an individual complaint.

In the reporting period the Commissioner initiated an investigation into emergency planning for people with a disability. Following engagement with the CSD and JACSD, the Commissioner convened a roundtable discussion with community agencies including: Women with Disabilities ACT; Communities At Work; Community Options; Carers ACT; ACT Council of Social Services; Catholic Care and Deafness Awareness; to discuss emergency planning for people with disability. Emergency planning for people with disability is multifaceted with various challenges including: reaching those who are socially isolated; ensuring adequate engagement and preparedness; securing support during an emergency or disaster and identifying and addressing gaps and potential risks. The Commissioner will continue to work in partnership with the various stakeholders on this matter.

The Commissioner was contacted about changes to the provision of health supports in schools. Healthcare Access at School (HAAS) model offers individualised care plans tailored to each student's health needs. The Commissioner is working with the ETD, ACT Health, the Australian Education Union and the Australian Nursing and Midwifery Federation to ensure best practice service delivery under the HAAS model. Part of this work is ensuring adequate competencies and accountability for non-medical practitioners who will be providing some of the health care to the students.

The placement of young people into residential aged care facilities was investigated by the Commissioner in conjunction with ADACAS and the Official Visitors. Young people in residential aged care facilities is a systemic issue which is best addressed through adequate housing and community supports. ADACAS is assisting young people in residential aged care to access the NDIS for funds for various supports.

Community engagement and education

During the year, the Commissioner and her staff conducted a number of community engagement activities designed to inform the community about the Commissioner's role and to raise awareness of the rights of people with a disability. Many of these initiatives are discussed elsewhere in this report under specific themes.

The Commissioner and/or staff attended a number of forums including the Speaking Up Forum with Minister Chris Bourke. Staff also conducted Disability and Discrimination Training for the JACSD.

Strategic work

The Commissioner contributed to policy debates through meetings and submissions. As well as the substantial work on a number of specific initiatives discussed below. Comments were provided on a range of matters including:

- submission to the review of the National Disability Advocacy Framework
- as a member of the ACT Restrictive Practices Oversight Steering Group
- ETD's Safe and Supportive Schools policy in relation to restrictive practices
- design proposals for the new court precinct in relation to disability access
- participation in the Implementation Review of the Working with Vulnerable People Scheme
- consent and contraception expert group to identify best practice in the use of contraceptives by women and girls with a disability
- submission into the Justice Reform Strategy regarding disability and cognitive impairment issues relating to sentencing of offenders in the Criminal Justice System
- comment on the need for a Disability Liaison Officer within the AFP
- the Commissioner noted in the previous reporting period that her office was advising in relation to the Human Rights Commissioner's intervention in a case before the ACAT - in the *Matter of ER* - regarding the capacity of a woman to make her own decisions. The Tribunal ruled that *ER* does not have capacity from time to time, to make decisions in relation to consent to treatment. See page 23 for a summary of the decision by the Commissioner.

Disability Action Plan

The Commission has continued to implement initiatives in the 2014-2015 Disability Action Plan (DAP) and is looking forward over the next three years with the current 2016-2019 DAP.

A number of initiatives in the first DAP have been completed and other activities have been undertaken over the reporting period to implement the DAP. These include:

- the development of the Commission Accessibility Register
- the development of accessibility planning for an event resource
- the Commission using the services of businesses that provide employment for people with a disability, including Branch Out Café for catering and Donkey Wash to wash tea towels
- the Commissioner and staff participate in the Australian Network on Disability.

Accessibility will continue to be monitored in the new DAP: both the physical accessibility of the Commission, as well as barriers for people with a disability to make complaints to the Commission. This will include ongoing review of written materials and requesting feedback from complainants and enquirers. Access to Commission's new location will be monitored to ensure people can access the Commission.

Employment continues to be a priority for the Commissioner both in terms of ensuring the ACT Government is a best practice employer for people with disabilities, as well as providing employment opportunities at the Commission. The Commission employs a number of staff with disabilities and will provide opportunities for internships and student placements for people with a disability. The DAP also focuses on the need to continue to promote the human rights of people with a disability, with actions promoting both the *Human Rights Act 2004* and the *UN Convention on the Rights of Persons with Disabilities*.

Official Visitors

The Commissioner has continued to maintain contact with the Official Visitors for Disability Services. With the new Commission structure, the Commissioner will also be working with the Official Visitors in their capacity to monitor Bimberi Youth Justice Centre.

The Official Visitors continue to refer issues of concern to the Commissioner, when informal processes have failed to produce positive results. Similarly, the Commissioner on occasions requests Official Visitors to visit residences when concerns were raised with the Commissioner about the conditions of disability group homes.

Case Study

A person made a complaint about a driver making inappropriate comments during transport to an appointment. The organisation actioned the complaint appropriately by counselling the transport driver and delivering refresher training on the code of conduct.

National Disability Insurance Scheme

The National Disability Insurance Scheme (NDIS) commenced operation in the ACT on 1 July 2014. Amendments to the *Disability Services Act 1991* commenced operation to ensure that safeguards in the current system were carried over to the new environment with the implementation of the NDIS.

The Commissioner is able to deal with complaints regarding the provision of disability services in relation to the National Disability Insurance Agency and the NDIS. There is a Memorandum of Understanding (MOU) with the Commonwealth Ombudsman to ensure the appropriate referral of complaints between the respective offices.

Agreed protocols were also developed between the Commissioner's office and the National Disability Insurance Agency to ensure the streamlining of complaint handling during the transitional period and to enable the exchange of information about service providers that may be of concern.

Violence, sexual assault and disability

The Commissioner continued to work with the Domestic Violence Crisis Service (DVCS), the Canberra Rape Crisis Centre, Women with Disabilities ACT and the Victims of Crime Commissioner, regarding options to assist women with disabilities to escape domestic violence or sexual assault. The discussions, which began in 2014, led to the establishment of a Crisis Services Scheme to ensure that women with disabilities have access to the crisis accommodation, transport, equipment and personal care that they need in order to ensure their safety.

As previously reported, the Commissioner provided a report on the Crisis Services Scheme to the Attorney-General towards the end of the 2013-2014 reporting year for tabling in the ACT Legislative Assembly. The report recommended that The ACT Government respond to the report within three months of the report being tabled. The ACT Government response was tabled in the Assembly on 12 May 2015.

On 17 December 2014, DVCS and Victim Support ACT signed a MOU to agree to work together to deliver on the Scheme. Under the MOU, DVCS will continue to fund transport and accommodation costs for women escaping violence, including women with disabilities. It will also provide for any upfront costs associated with equipment or personal care needs during a crisis. Victim Support ACT agreed to reimburse the funds to DVCS for costs associated with personal care and equipment.

Commission staff collaborated with DVCS, Women with Disabilities ACT and the Canberra Rape Crisis Centre to develop an on-line e-learning module specifically developed for disability support workers. The e-learning module will provide information to assist disability support workers to understand domestic violence specific to women with a disability. As reported in the 2014-2015 Annual Report, Commission staff delivered two training sessions and developed an online e-learning module for workers in the domestic and sexual violence workforce on disability and in particular specific issues relating to women with disabilities. This e-learning module is now on the Commission's website and is available for anyone to access. A further e-learning module directed to disability support workers is currently under development.

Referrals from the Public Advocate

Section 11(2) of the *Public Advocate Act 2005* requires the Public Advocate to refer systemic matters relating to people with a disability to the Commissioner for consideration. The Public Advocate referred one matter to the Commissioner during the reporting period (and prior to the merger on 1 April 2016) that indicated systemic concerns may exist.

The Commissioner's office continues to refer matters regularly to the Public Advocate where individuals may benefit from individual advocacy or guardianship orders, rather than pursuing complaint issues.

Services for older people

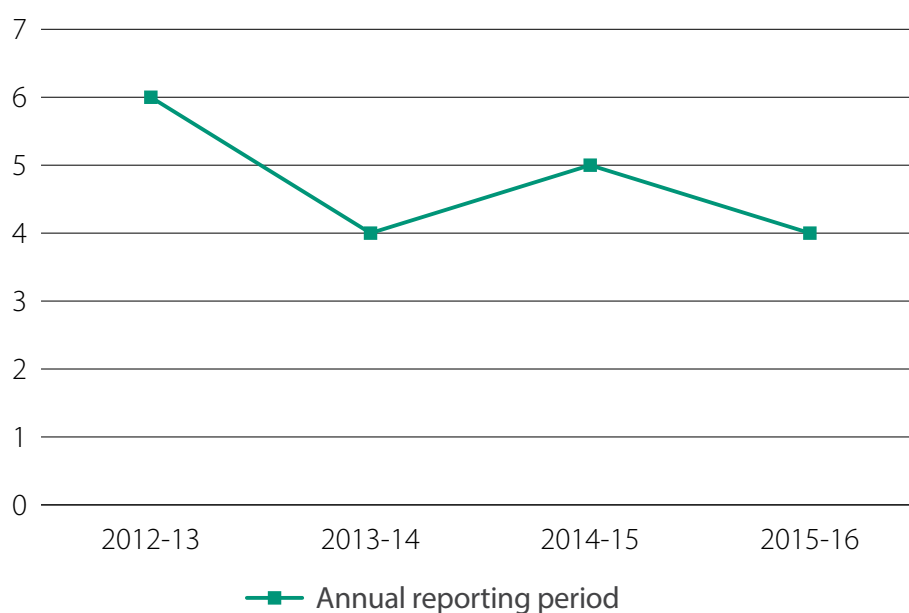
The Commissioner has a separate jurisdiction in relation to services for older people which includes: home help; personal care; home maintenance; food services; respite care; recreation; health services; advocacy and services provided in association with the use of premises for the care; treatment; or accommodation of older people such as retirement villages. The Commissioner is able to receive complaints from older people about services provided in the ACT for older people and has provided a number of information sessions and resources during the reporting period to older people to increase awareness of their rights and the availability of complaint handling services in the ACT.

Enquiries and complaints

The Commission received nine enquiries and four complaints were received relating to services for older people during this reporting period. Three of these complaints were closed during this reporting period. The low number of complaints does not reflect ongoing community feedback that older people continue to experience barriers to participation in public life. The small number of enquiries and complaints may reflect a low level of awareness of these Commission functions and feedback and that older people may be reluctant to use formal complaint mechanisms where they are reliant on particular services and service providers. The Commission also notes that there is overlap in these areas with age discrimination covered by the *Discrimination Act 1991* and the health services jurisdiction. The Commission also acknowledges the role of advocacy of groups including Council for the Ageing (COTA), ADACAS and Carers ACT and Health Care Consumers Association in supporting older people to advocate for themselves in accessing services and building awareness and capacity with community members about their rights with respect to accessing services.

The Commission is committed to working with key community and advocacy organisations to increase awareness of the rights of older people to access all areas of community services on equitable terms and to ensure older people feel confident and supported in utilising formal complaint handling processes available to them.

Figure 3 – Complaints received – services for older people



Case Study

An older woman was being transported by ambulance from a hospital back to her nursing home. When the ambulance arrived, the nursing home would not accept the patient. The patient had poor skin integrity and was on the stretcher for two hours before being transferred to an air mattress.

Policy and procedures from both providers were found to be satisfactory, but providers were asked to raise the importance of communication, record-keeping and timely action in relation to discharge planning with relevant facility and hospital staff.

Aged Care Complaints Scheme

Matters that are amenable to more appropriate resolution by the Commonwealth Department of Health and Ageing's Aged Care Complaints Scheme (ACCS) are referred to that service. The ACCS deals with complaints about Australian Government-subsidised aged care in the ACT and has some jurisdictional overlap with the Commissioner. Callers to the Commission's intake team who identify concerns about aged care facilities are advised of the services provided by the ACCS.

The Commissioner will on occasion investigate complaints made in relation to Commonwealth-subsidised aged care facilities if they raise issues about the standards of practice of health professionals working in those facilities or other concerns around health care. The Commissioner's formal role to investigate matters of health profession standards and to jointly consider complaints with health regulation boards, places the Commissioner in a strong position to directly facilitate appropriate outcomes in such matters.

Case Study

A woman complained that the aged community she resided in did not provide rubbish disposal bins suitable for aged and disabled residents. The lid was too heavy to lift but cannot be left open because of the bad odours. The woman also raised concerns about the other residents in her community who are not proficient in English and lack the skills to communicate their complaints, or know that they can complain. She also had concerns about not being provided information about affordable gardeners so her gardens could be maintained.

The matter relating to the rubbish disposal bins in the woman's residential community had been raised with the Commission previously, and the provider reported taking reasonable steps toward addressing the concerns raised.

The Commission wrote to provider for their response to complainant's concerns from the previous complaint and for an update on progress. The provider investigated and found the bins were too heavy to lift, and advised they would be changing them to new bins with much lighter lids suitable for older residents. The provider also advised they would be changing the bins in other complexes. The provider had undertaken to respond to the complainant directly about providing information to residents about how they could raise concerns. The provider also committed to improving residents' awareness of complaints and feedback procedures.

Retirement villages

The Commissioner continued as a member of a Review Advisory Group to review the effectiveness of the Retirement Villages ACT. The Commissioner attended two meetings of the Review Advisory Group and presented at one of the meetings. Other contributions include participating in a public forum on Retirement Villages ACT review, meeting with an expert panel for a review of Retirement Villages ACT and holding discussions with JACSD on the review recommendations.

Strategic work

Strategic work continued with COTA. The Commissioner met with the COTA Chair and CEO, attended the launch of COTA's Achieving Friendly Communities and presented at the COTA AGM. A review and comment on COTA's Priorities for Improving Hospital Discharge Planning for Older Public Patients in the ACT was undertaken by the Commissioner.

In continuing the work on elder abuse from the previous report, staff participated in an interview with COTA on elder abuse with case studies provided. Work continues in this area in relation to raising awareness and understanding of elder abuse both in the community and among relevant professionals, organisations and service providers.

Other strategic work undertaken during the reporting period included attending a range of meetings and providing input to submissions on matters relating to older people, including the Active Ageing Framework which expresses the ACT Government's priorities for active ageing to 2018.

Community education and engagement

Commission staff attended the launch of Seniors Cards and visited aged care facilities to speak about the role of the Commissioner and the complaints process. Commission staff delivered a presentation to the Probus Club on older person's jurisdiction.

The Commissioner sponsored the *Life's Reflections photo competition*, which celebrates the lives of older Canberrans through the eyes of different age groups. The Commissioner was on the Judging Panel and presented the Age-Friendly City Award, which is sponsored by the Commissioner.

Children and young people services

Accepting complaints in the area of children and young people is a new responsibility for the Commissioner and is a result of the restructure of the Commission. Since 1 April 2016 (when the new Commission was in place) the Commissioner has received five complaints in relation to children and young people. As of 30 June 2016, all five complaints remain active.

The Commissioner anticipates that she will work collaboratively with the Children & Young Person's Commissioner and Public Advocate to effectively handle complaints related to children and young people.

Children & Young People Commissioner

Role and functions

The roles and functions of the Children & Young People Commissioner (CYPC) are established under Sections 6, 14 and 19B of the *Human Rights Commission Act 2005* (HRC Act). Before 1 April 2016 these roles and functions included:

- investigating complaints about the provision of services for children and young people
- consulting with and listening to children and young people and encouraging government and non-government agencies to do the same
- promoting the rights of children and young people
- making recommendations to government and non-government organisations on legislation, policies, practices and services that affect children and young people
- encouraging and assisting providers of services for children and young people to contribute to review and improve service delivery
- promoting community discussion about the CYPC and services for children and young people
- conducting inquiries and reviews.

During this reporting period the ACT Government amended the HRC Act and from 1 April 2016 the roles and functions of the CYPC were changed. Complaints functions formerly held by the CYPC have been assigned to the Discrimination, Health Services, Disability & Community Services Commissioner. Further, a single position now has responsibility for the functions and responsibilities accorded to both the CYPC and Public Advocate roles.

Organisational structure

Alasdair Roy was the CYPC until he concluded his extended seven-year term on 31 March 2016.

Gabrielle McKinnon was appointed as the Public Advocate and CYPC on a temporary basis from 1 April 2016 to 1 May 2016.

Jodie Griffiths-Cook commenced as Public Advocate and CYPC on 2 May 2016.

Until 1 April 2016, the CYPC was also responsible for the management and oversight of the Commission's corporate and administrative functions. These functions accounted for approximately 30% of the CYPC's total workload.

From 1 April 2016 the CYPC is also the Public Advocate.

Systemic and policy work

During the reporting period, the CYPC continued to focus on systemic and policy work, including:

- undertaking reviews and inquiries
- providing policy advice to government, community and private agencies
- commenting on cabinet submissions, draft discussion papers and draft policies and procedures
- membership of a range of groups and forums
- meetings with executive staff from government, community and private agencies
- meetings with members of the ACT Legislative Assembly
- general policy and project work.

To guide this work, the CYPC continued to develop constructive relationships with staff at all levels of government, community and private organisations and to listen to their views, their achievements and their concerns about service delivery for children and young people.

Additionally, the CYPC continued to identify evidence-based best practice in service delivery for children and young people, including through reviews of contemporary literature and equivalent law, policy and programs in other Australian states and territories.

Systemic and policy work progressed by the CYPC in 2015-2016 is summarised below.

Service delivery for children and young people in the Jervis Bay Territory

The CYPC regularly visited the Jervis Bay Territory (JBT) to meet with children and young people from the JBT; as well as the Wreck Bay Aboriginal Community Council; service providers and the broader Wreck Bay and Jervis Bay communities, to discuss service delivery for children and young people in JBT. Issues of current discussion with the community include:

- the impact of the new federal child-care rebate legislation on the sustainability of child-care services in the Wreck Bay community, on equity of access to care for Indigenous children and the potential set-back to the community's 'Learning for Life' philosophy
- delays in rolling out the NDIS in Jervis Bay
- disenfranchisement of the community: people living in JBT have no right to vote in any State or Territory election, nor do they have any say in ACT laws that apply to them. The Commission has written to the ACT Electoral Commissioner and will continue to advocate for the rights of the community to participate in public life.

Children and young people with complex needs who are in contact with the youth justice system

The CYPC, the Health Services Commissioner, in conjunction with members of the Bimberi Oversight Agencies Group completed a review into the services and facilities provided by the ACT Government for children and young people with mental health conditions and other complex needs who are involved in the youth justice system.

The CYPC released the report *Children and Young People with Complex Needs in the ACT Youth Justice System: Criminal Justice Responses to Mental Health Conditions, Cognitive Disability, Drug and Alcohol Disorders and Childhood Trauma* in March 2016. The report is the outcome of a joint commission initiated consideration with the ACT Health Services Commissioner and followed an extended period of community discussion and consultation.

The final report provides a detailed picture of: how youth justice works in the Territory for children and young people with complex needs; the range of agencies involved; their different roles; what is working well and what can be improved. Suggestions for improvement related to information gathering and reporting and the expansion of diversion options and pathways away from the justice system.

Child safe/child friendly organisations

During the reporting period, the CYPC continued to advocate for the development of child safe/child friendly organisations and to support government and non-government organisations to review and improve their policy and practice in this area. The CYPC describes a 'child safe/child friendly organisation' as one which consciously and systematically:

- creates conditions that reduce the likelihood of harm occurring to children and young people
- creates conditions that increase the likelihood of any harm being discovered
- responds appropriately to any disclosures, allegations or suspicions of harm.

As the name suggests, the principles that underpin child safe/child friendly organisations focus on the organisation as a whole and reinforce the need to have evidence based policies, procedures and practice in place across the organisation. They also require a culture which allows children and young people to be actively involved in the development and review of those policies and procedures.



World's Biggest Playgroup Event

Royal Commission into Institutional Responses to Child Sexual Abuse

During the reporting period, the CYPC met and spoke with members and staff of the Royal Commission to discuss issues of mutual concern and interest. The CYPC also participated in the Royal Commission into Institutional Responses to Child Sexual Abuse private roundtable 'Making Institutions Child Safe' in April 2016. In May 2016, the CYPC participated in a forum held by the Royal Commission in Canberra focusing on issues for the multicultural community. The CYPC also attended meetings of the ACT Government Working Party on the Royal Commission into Institutional Responses to Child Sexual Abuse. The Human Rights Commissioner formally appeared and was cross-examined by the Royal Commission on 3 July 2015.

Reportable Conduct Scheme

During the reporting period, the CYPC provided input to the ACT Government's Reportable Conduct Scheme, in meetings and written submissions. The model is similar to the scheme currently in place in NSW, however the ACT context is very different as the ACT Ombudsman has not previously had an oversight role in relation to services for children and young people. The CYPC has emphasised the need for close co-operation and information sharing between the range of agencies with overlapping statutory responsibilities to ensure that the scheme operates effectively.

Monitoring Out of Home Care

Out of Home Care remains a systemic issue of concern. An emerging area of focus is the placement of very young children in group residential care. The CYPC is continuing to monitor *A Step Up for Our Kids*, the ACT Government Out of Home Care Strategy for 2015-2020, as services come into operation throughout 2016. The CYPC wishes to ensure the system contains appropriate accountability and safeguarding mechanisms.

Review into System Level Responses to Family Violence in the ACT

In February 2016, the ACT Government appointed Mr Laurie Glanfield AM to conduct an external review of ACT Government Directorates and service providers that respond to family violence. The Commission met with Mr Glanfield and provided a submission.

Amendments to the *Health Records (Privacy and Access) Act 1997*

In late 2015, the CYPC provided comment to JACSD and ACT Health on the Health Legislation Amendment Bill 2015 that amended the *Health Records (Privacy and Access) Act 1997*. Our feedback assisted the improvement of definitions of 'child' and 'young person', clarified the language explaining processes of privacy and access for patients under 18 years of age and updated terminology used to describe young people.

Seeking the views and wishes of children and young people under s352 of the *Children and Young People Act 2008*

The CYPC continued to encourage Child and Youth Protection Services to seek and consider the views and wishes of children and young people when case management decisions are being made. The CYPC remains of the view that certain decisions, including placement, contact, and choice of school, should not be made without CPS actively seeking and considering the views and wishes of the affected child or young person.

Administrative review of decisions made by Child and Youth Protection Services under the *Children and Young People Act 2008*

The CYPC remains concerned about the lack of avenues for independent review of decisions made by Child and Youth Protection Services in relation to children and young people in the care of the Director-General.

The CYPC remains of the view that the ACAT current scope of decisions reviewable by the be extended to include decisions such as where a child or young person will live and who the child has or young person has contact with.

Amendment to the *ACT Human Rights 2004*

The CYPC remains of the view that section 11 of the HR ACT should be amended, despite an amending Bill being passed during the reporting period. Specifically, the CYPC suggests that section 11 be separated into two distinct parts (one recognising the rights of the family and the other the rights of children) and that the term 'children' be replaced with the term 'children and young people'.

Additionally, the CYPC remains concerned that the current wording of section 11 may inadvertently give the impression that the rights of children and young people are limited solely to the 'right to protection' (rather than a range of other rights, including participation).

Guidelines for portraying children and young people in the media

The CYPC progressed, but did not finalise, the development of draft guidelines about how to respectfully and accurately portray children and young people in the media.

ETD Dress Standards and Uniforms Policy

CYPC provided comment on the draft Dress Standards and Uniforms in ACT Public Schools Policy, Procedure and Guideline.

Draft cabinet submissions

Additionally, during the reporting period, the CYPC reviewed and provided comment on many draft cabinet submissions which, for reasons of confidentiality, cannot be detailed here.

Consultation and engagement with children and young people

The CYPC is committed to promoting the right of children and young people to participate in decisions and actions that affect them. The participation of children and young people is also supported by a number of ACT Government policy commitments, including:

- the ACT Children and Young People's Commitment 2015-2025
- the Canberra Social Plan 2011
- the ACT Government Community Engagement Manual.

Additionally, the right of children and young people to be heard and involved in decision-making is supported by ACT and international law, including:

- *Human Rights Act 2004 (ACT)*
- United Nations Convention on the Rights of the Child.

More importantly, however, the CYPC consults and engages with children and young people because children and young people are experts in their own lives and have unique perspectives and ideas about how to make Canberra better for children and young people.

Consulting with children and young people will:

- contribute the views of children and young people to a discussion
- model to children and young people that their views are important and that adults listen to these views
- model to government, community and private agencies that talking with children is worthwhile and can lead to better services and better outcomes
- consultation and engagement activities with children and young people.

During the reporting period, the CYPC undertook a number of consultations with children and young people. These are summarised below.

Expert Panel on Students with Complex Needs and Challenging Behaviour

In May 2015, the ACT Minister for Education and Training announced the establishment of an Expert Panel (comprising Emeritus Professor Tony Shaddock, Dr Sue Packer and Alasdair Roy) to *'review policy and practice in ACT schools with reference to contemporary best practice, engage in extensive community consultation, and provide a report, including findings and recommendations, to a Select Committee of the ACT Legislative Assembly through the Minister for Education and Training'*. This followed an incident where cage was built in an ACT Public School to manage the behaviour of a young boy with autism, which received significant national and international attention. The work of the Expert Panel consumed a significant proportion of the CYPC's resources, with all CYPC staff (including the Commissioner) working almost full-time on the project.

The CYPC made sure that the views of students were central to the work of the Expert Panel. The CYPC conducted a major consultation with students in ACT schools, comprising a series of structured consultations with 275 students from seven ACT Public, Independent and Catholic schools. The consultations explored a range of topics including: the range of behaviours that students notice within their school; whether the behaviour of other students ever disrupts their own learning and, if so, how; and ideas about how to make school a place where everyone can learn and have fun. Feedback from students directly informed the Expert Panel members' understanding of the experience of challenging behaviour for students in schools and ensured that young people's voices were included in the final Report.

On 10 November 2015, the Expert Panel provided its Report (which contains 50 recommendations) to the Minister. The Report was tabled in the ACT Legislative Assembly in November 2015. The ACT Government agreed or agreed in principle to all of the report's recommendations. A taskforce has been established to oversee and report on the implementation the recommendations and the CYPC will continue to monitor progress in relation to implementation of the Report's recommendations.

Language in out-of-home-care

The CYPC partnered with Dr Sharon Bessell, Children's Policy Centre, Australian National University (ANU), to undertake a consultation with children and young people in out-of-home-care. Preliminary interviews commenced in 2015, exploring children and young people's views about the language used to describe the out-of-home-care system. The project has been placed on hold due to resource constraints and prioritisation of work on the Expert Panel discussed above.

Countering violent extremism

In 2015-16, the CYPC progressed work with the ACT Government to explore young people's views on violent extremism. During this reporting period, the CYPC developed a consultation project in conjunction with the Australian Intervention Support Hub at the ANU. This involved extensive planning discussions with a range of ACT Government Directorates and the creation of a Steering Committee.

The CYPC conducted a pilot project in one school in May 2016, with the full consultation taking place in approximately ten schools in the second half of 2016. The consultation involves talking with Year 7, Year 9 and Year 11 school students in small groups about why people may choose to protest in violent ways, or get caught up in violent activities.

Results of this consultation will help policy makers to better understand the perspectives of young people and to improve government approaches to supporting young people at risk, including those at risk of becoming involved with violence.

Jervis Bay Territory

The CYPC continued to maintain connection with children, young people and families in Jervis Bay Territory (JBT) and the agencies providing services to them. During this reporting period, the CYPC undertook four consultations with children in the Wreck Bay community and at the Jervis Bay School.

In July 2015, the CYPC held an art engagement activity with the Wreck Bay community during NAIDOC Week celebrations. In December 2015, the CYPC facilitated a workshop with Year 3 and Year 4 students at Jervis Bay School on the theme of human rights. In February 2016, the CYPC attended a fundraising film night event at the Jervis Bay School and donated moneys raised by Commission staff to support the School's biennial 'Black Rock to Red Rock' cultural exchange trip to Uluru. The CYPC and staff also conducted an engagement with students.

In June 2016, the new CYPC visited: Jervis Bay School to meet and talk with students and staff and attend their NAIDOC assembly; Wreck Bay Aboriginal Community Council to meet with staff; Gudjahgahmiamia Early Learning Centre to meet and talk with children and staff; and attended the Jervis Bay School NAIDOC performance (Land Rights Rap).

ACT Youth Week

The CYPC held a stall during the launch of Youth Week in April 2016 and conducted a survey with young people, inviting them to say what they think the incoming CYPC should focus on.

Responses covered a wide range of ideas, with themes around: making public spaces interesting for children and young people having more community festivals and activities and working towards equality and better services for children and young people with particular needs such as mental health issues, homelessness or struggling with their identity.

Playgroups ACT

The CYPC conducted an art activity to engage with preschool age children and their parents as part of ACT Playgroup's 'World's Biggest Playgroup' in March 2016.

Gungahlin College

The CYPC attended and presented at sessions with legal students at Gungahlin College.

Child Aware Conference in Brisbane

In May 2016, the CYPC facilitated a panel discussion with young people and fellow Commissioners to elicit views about 'childism'. The discussion informed conference attendees and challenged underlying assumptions which reflect an adult-centric view.

Northside Community Services

In May 2016, the CYPC visited Civic Early Childhood Centre, operated by Northside Community Services, to engage with the children and meet the staff.

Transitions Forum at Merici College

In June 2016, the CYPC attended the Merici College Transitions Forum to discuss career options for young people interested in the public service and in human services fields.

Ongoing consultation and engagement with children and young people

Throughout the year, the CYPC also met with children and young people in a range of settings and (when appropriate) discussed the role of the CYPC, issues of interest to children and young people and other topics as they arose.

Complaints handling

When the ACT CYPC was first established in 2007, it had legislative responsibility for investigating and resolving complaints about services for children and young people. This continued until the restructure on 1 April 2016, when responsibility for handling complaints about services for children and young people transferred to the Discrimination, Health Services, Disability & Community Services Commissioner.

During the reporting period, the CYPC continued to focus resources on systemic and policy work rather than solely undertaking the investigation of individual complaints. This decision was made for a number of reasons, including the CYPC's view that it can be more effective to address concerns from a systemic perspective, rather than continuing to address individual complaints.

Accordingly, the CYPC triaged complaint related enquiries, giving priority to those complaints where:

- a child or young person may have been harmed, or was at significant risk
- the complainant was raising allegations about a significant breach of established policy, procedure or legislation
- the complainant was particularly vulnerable or powerless, and/or unable to effectively resolve their complaint on their own behalf.

Table 1– Number of complaints, complaint related enquiries and other requests for information or assistance

	2013-14	2014-15	2015-16
Complaints	30	16	10
Complaint related enquiries	57	66	66
Other requests for information or assistance	67	75	-
Total number of contacts	154	157	76

During the reporting period, the CYPC received and assisted to resolve ten complaints about a service provided to a child or young person, or their carer.

During the reporting period, the CYPC also received and assisted to resolve 66 complaint related enquiries. A complaint related enquiry is an approach by a person which raises issues or concerns which could be the subject of a complaint, yet the person contacting the CYPC had not yet decided if they wanted to make a formal complaint, or they did not want to make a complaint but wanted advice and/or assistance about how to resolve their concerns.

Due to a change in intake procedures, the CYPC did not record the number of other requests for information or assistance about issues relevant to children and young people this year. While not measured for this reporting period, people continued to contact the CYPC with requests for:

- information about services for children and young people
- information about issues affecting children and young people
- information about 'working with children' employment checks in the ACT
- information about Child Safe/Child Friendly practice
- information about how to respond to concerns about the safety or well-being of a child or young person
- requests for the CYPC to attend an event
- information about the role of the CYPC
- information about work experience or volunteering opportunities within the CYPC.

Commission initiated considerations

In addition to considering complaints raised by children and young people and their parents or carers, the CYPC may also initiate considerations if satisfied that it is in the public interest to do so. These considerations allow the CYPC to review systemic issues and allegations of significant concern.

During this reporting period the CYPC and the Health Services Commissioner continued a Commission initiated consideration into the sharing of personal health records by school counsellors within the public, Catholic and independent education sectors. The matter was not concluded within this reporting period, and following the restructure of the Commission, has been re-allocated to the Discrimination, Health Services, Disability & Community Services Commissioner.

During the reporting period, the CYPC also commenced a Commission initiated consideration in relation to behaviour management policy and practice at a school in the ACT. Responsibility for this matter has now been transferred to the Discrimination, Health Services, Disability & Community Services Commissioner, as a complaint about the matter was received.

Service providers that were the subject of complaints

Of the 66 enquiries received by CYPC during the reporting period, ten complaints received proceeded to formal investigation. Four (40%) complaints involved allegations about services provided by Child and Youth Protection Services (CYPs) and four (40%) involved concerns about the Bimberi Youth Justice Centre.

Two complaints were about education providers and both related to ACT Public Schools.

Table 2 – Number of formal complaint investigations, according to service provider type

	2013-14	2013-14	2015-16
Office for Children, Youth and Family Support	21 (70%)	9 (56%)	8 (80%)
• Child and Youth Protection Services	17 (57%)	6 (37%)	4 (40%)
• Bimberi Youth Justice Centre	4 (13%)	3 (19%)	4 (40%)
Education providers	5 (16%)	5 (31%)	2 (20%)
• Government	5 (16%)	4 (25%)	2 (20%)
• Private or independent	0 (0%)	1 (6%)	0
Other government agencies	2 (7%)	0 (0%)	0
Community sector agencies	2 (7%)	2 (13%)	0
Private sector agencies	0 (0%)	0 (0%)	0
Total	30 (100%)	16 (100%)	10 (100%)

Issues raised in complaints and complaint related enquiries

Due to issues of confidentiality and privacy, the CYPC chooses not to publish any case studies of the complaints received, however, while specific details varied significantly, most complaints and complaint related enquiries received by the CYPC involved allegations of:

- inappropriate service provision (including breaches of policy, procedure or legislation)
- services not being available when needed or requested
- lack of consultation
- unclear decision making
- lack of documentation
- lack of administrative review mechanisms
- not adhering to undertakings or agreement
- adversarial or bullying relationships
- significant time delays.

While some of these concerns were minor, or reflected a one-off problem or oversight, others reflected more significant service delivery issues, including lack of:

- understanding of legislative obligations
- appropriate policies or procedure
- appropriate range or level of services
- appropriate resources (including staffing).

Human rights issues raised in complaints

During the reporting period, when considering service delivery to children and young people by public authorities, the CYPC examined whether these agencies had acted consistently with their obligations under the *Human Rights Act 2004* (HR Act) and whether they had taken relevant human rights into account in their decision making.

In doing so, the CYPC reminded public authorities to take into account not only the right of children and young people to protection, but all of their relevant human rights, including their rights: to equality; to privacy; to liberty and security of person; to freedom of expression and to participate in public life.

Additionally, during the reporting period, the CYPC worked closely with the CSD to improve the Directorate's understanding of, and compliance with, their obligations under the HR Act and provided tailored human rights training to the Directorate.

Committees and community liaison

Bimberi/Children and Young People Oversight Agencies Group

The CYPC hosted a monthly meeting of the Bimberi Oversight Agencies Group to discuss issues of mutual interest regarding the Bimberi Youth Justice Centre and the broader youth justice system and to work together on issues of systemic concern. During the year, it was renamed the Children and Young People Oversight Agencies Group to reflect the new responsibilities of the Official Visitors for children and young people in residential care in the child protection system. The Children and Young People Oversight Agencies Group consists of:

- ACT Public Advocate and Children & Young People Commissioner
- ACT Discrimination, Health Services, Disability & Community Services Commissioner
- Official Visitor for Children and Young People
- Aboriginal and Torres Strait Islander Official Visitor.

Additionally, during the reporting period, the CYPC, the Health Services Commissioner and the Bimberi Oversight Agencies Group completed a review into the services and facilities provided by the ACT Government for children and young people with mental health issues who are involved in the youth justice system.

The CYPC released the report *Children and Young People with Complex Needs in the ACT Youth Justice System: Criminal Justice Responses to Mental Health Conditions, Cognitive Disability, Drug and Alcohol Disorders and Childhood Trauma* in March 2016. The final report followed an extended period of community discussion and consultation and provides a detailed picture of: how youth justice works in the Territory for children and young people with complex needs; the range of agencies involved; their different roles; what is working well and what can be improved. Suggestions for improvement related to information gathering and reporting and the expansion of diversion options and pathways away from the justice system.

Australian Children's Commissioners and Guardians Group

During the reporting period, the CYPC worked closely with the Australian Children's Commissioners and Guardians (ACCG) group, the network of Children & Young People Commissioners and Guardians from each Australian State and Territory – to progress a range of national initiatives, including:

- in November 2015, the ACCG wrote a joint letter to the Commonwealth Attorney General supporting the recommendation of the Standing Committee on Social Policy and Legal Affairs for an inquiry into the regulatory and legislative aspects of surrogacy arrangements
- in February 2016, the ACCG made a joint submission to the resulting Standing Committee on Social Policy and Legal Affairs *Inquiry into Domestic and International Surrogacy*
- in April 2016, the ACCG completed a review of the use of restraint in youth justice centres across Australia, following the Northern Territory Children's Commissioner's report into incidents at Don Dale Correctional Centre. The ACCG published the report *Human rights standards in youth detention facilities in Australia: the use of restraint, disciplinary regimes and other specified practices*.

During the reporting period, the CYPC met formally with the ACCG on two occasions and had regular informal and formal discussions and teleconferences with other members of ACCG on a range of local and national issues.

In November 2014, the ACCG elected the ACT Children & Young People Commissioner as the ACCG National Convener and he continued this position until March 2016. The role of the National Convener is to act as the ACCG's contact point and to assist in the dissemination of information for the ACCG.

CYPC hosted a meeting of ACCG in Canberra.

ACT Children and Young People Death Review Committee

The CYPC is a standing member of the ACT Children and Young People Death Review Committee (CYPDRC), which was established in 2011. The Committee met four times during the reporting period. The CYPC is also a member of the Australian and New Zealand Child Death Review and Prevention Group.

ACT Children's and Young People's Taskforce

The CYPC has a standing position on ACT Children's and Young People's Taskforce. The CYPC is involved in discussions about developing a register of all ACT Government engagements and consultations with children and young people, in keeping with reporting against the ACT Government's Children and Young People's Commitment 2015-2025. We are keen to ensure that the process does not become a 'tick box', but that indicators are built in to measure whether engagements were conducted well and how outcomes inform policy and practice.

Liaison with the Public Advocate

During the reporting period, the CYPC and the Public Advocate continued to work together in an open and supportive manner. In doing so, the CYPC met and spoke formally and informally with the Public Advocate to discuss issues of mutual concern and interest.

Additionally, during the reporting period, the CYPC continued to refer individual advocacy matters to the Public Advocate under the MOU that existed between the CYPC and the Public Advocate and in compliance with s51(A) of the HRC Act.

On 1 April 2016 the two statutory authorities were linked in a single role within the Commission, following legislative restructure by the ACT Government. The CYPC is now also the Public Advocate.

Developing working relationships with community service providers

There are hundreds of agencies providing services for children and young people in Canberra and it is important for the CYPC to develop and maintain constructive relationships with as many of these agencies as possible, in order to fulfill the legislative function of encouraging and assisting them to review and improve service delivery.

Doing so not only provides the CYPC with a greater understanding of what is happening in the sector, and what is and isn't working in The ACT Government and non-government services sector, but also allows for more efficient and timely resolution of complaints and enquiries as they arise. Additionally, familiarity by the sector with the CYPC, and staff of the CYPC, assists to de-mystify the agency and encourages service providers to contact the CYPC to talk over issues of concern.

During the reporting period, the CYPC visited and spoke with a range of service providers. The nature of contact with agencies varied significantly and included:

- formal community education, presentations at agency meetings and network forums
- being a guest speaker at a launch, or a workshop
- presentations at staff meetings, schools or smaller groups
- spending time just 'hanging out' with workers and children and young people at the service
- helping out at agency functions or presentations.

Meetings occurred with: CSD; Executive; Foster Care Association; ACT Safe Schools Roundtable; Office for Women; Environment and Planning Directorate; OCYFS Senior Managers; CREATE Foundation; KidsSafe ACT; Child and Youth Protection Services; Banksia Hill Detention Centre; Families Australia; Management Assessment Panel (MAP); Southside Community Service; Canberra Islamic Centre; Aboriginal and Torres Strait Islander Elected Body; Australian Federal Police; Wreck Bay Aboriginal Community Council; Noahs Early Intervention Services; Aboriginal Medical Service; Wandinda Aboriginal Women's Service; Territory and Municipal Services; Family Law Pathways Network; ADACAS; ACT Together; ACT Commissioner for Sustainability and the Environment; Youth Coalition of ACT and Shine for Kids.



Jodie Griffiths-Cook chairing a panel at Families Australia
- Childaware Conference, May 2016



Australian Children's Commissioners and Guardians Meeting

Children & Young People Commissioner publications

During the reporting period, the CYPC released a number of publications, as follows.

Report on children and young people with complex needs who are in contact with the youth justice system

The CYPC released the report *Children and Young People with Complex Needs in the ACT Youth Justice System: Criminal Justice Responses to Mental Health Conditions, Cognitive Disability, Drug and Alcohol Disorders and Childhood Trauma* in March 2016. The report is the outcome of a joint commission initiated consideration with the Health Services Commissioner and followed an extended period of community discussion and consultation. Details about this work are provided in section 1.

Human rights standards in youth detention facilities in Australia

In 2015, the Northern Territory Children's Commissioner (NTCC) published their report into services provided by the NT Department of Correctional Services at the Don Dale Youth Detention Centre. Collectively the Australian Children's Commissioners and Guardians (ACCG) were concerned that the NTCC report did not receive the serious response that it appeared to warrant and so decided to produce a joint report comparing the laws, policies and procedures governing youth justice in States and Territories around Australia. The CYPC contributed to the final report, *Human Rights Standards in Youth Detention Facilities in Australia: the Use of Restraint, Disciplinary Regimes and Other Specified Practices* which was published in April 2016.

Report on children's views about the environment

In March 2015, in conjunction with the ACT Commissioner for the Environment, the CYPC undertook a two-day consultation with 81 Year 4 students at Ngunnawal Primary School. The consultation explored: how children conceptualise the environment; what about the environment is important to them; and their ideas for protecting the environment. The students also wrote a message to the Commissioner for the Environment about what they would like him to focus on to protect the local ACT environment. In September 2015, the CYPC released a report on the outcome of the consultation.

How to Grow a Playspace

In early 2015, the CYPC was invited to submit a chapter to a book *How to Grow a Playspace*. The book is intended to be a practical guide for landscape architects, planners, educators and community groups to assist them to design playspaces for children and young people. In June 2015, the CYPC submitted a draft chapter, which was accepted for publication. *How to Grow a Playspace* is due to be published in December 2016.

Right Here Right Now

In November 2014, to celebrate the 25th Anniversary of the United Nations Convention on the Rights of the Child, the CYPC invited every student in every ACT school to create a self portrait on coloured card and to write a message under their portrait about 'why it is important for adults to listen to children and young people'. The CYPC received 11,500 portraits and messages, from 50 ACT schools. This represents 15% of all school age students in the Territory. The portraits were attached to 700 cardboard boxes and built into a large art installation in the shape of a double helix. The artwork was exhibited in the Fitters Workshop in Kingston in April 2015 and was visited by more than 700 people. In November 2015, the CYPC released a hardcopy photobook that documents the story of the RHRN project. During this reporting period, CYPC also arranged for some of the original RHRN art work to be displayed in The Canberra Hospital.

Children & Young People Commissioner information sheets

Throughout the reporting period, the CYPC continued to release information sheets about some of its consultation and engagement activities with children and young people. As at 30 March 2016, the CYPC had released 44 information sheets, (copies of which are available on request).

During the reporting period, the CYPC also distributed a range of other promotional material, along with information and contact details for the CYPC, including: colour pencil sets; colouring-in books; tote bags; magnets; wallet cards; beanies; yo-yos; temporary tattoos; stickers and rubber handballs.

During this reporting year the Commission received the Award for Excellence in Research and Evaluation at the 2015 Youth Sector Awards hosted by the Youth Coalition of the ACT ('Yogie Awards') for the 2014 publication *Passing the Message Stick: Talking with Aboriginal and Torres Strait Islander People about Services for Children and Young People*.

Speeches and presentations

During the reporting period, the CYPC spoke at a number of events, including:

- September 2015, the CYPC presented the 2015 NAPCAN/Child Protection Week Awards
- October 2015, the CYPC attended and presented at CREATE Youth for Change International Conference
- October 2015, the CYPC staff presented the *CYPC Award* at the Childrens Week Awards Ceremony
- November 2016, the CYPC appeared before the ACT Legislative Assembly Standing Committee on Justice and Community Safety during the hearings on *Annual and Financial Reports 2014-2015*
- November 2015, the CYPC spoke at the launch of the CYPC report on Environment Consultation at Ngunnawal School
- November 2015, the CYPC spoke at the launch of the *Right Here Right Now* book at Torrens School
- December 2015, the CYPC attended and presented at Jervis Bay Family Violence Forum
- December 2015, the CYPC attended Aboriginal and Torres Strait Islander Elected Body Annual Report Hearings
- February 2016, the CYPC spoke with WIN News about the Countering Violent Extremism consultation
- February 2016, the CYPC spoke with ABC News about Australia's performance against the UN Convention on the Rights of the Child
- May 2016, the CYPC facilitated a panel discussion at the Child Aware Conference 22-23 May (Brisbane).

Public Advocate

The Public Advocate was restructured in 2016 with the passing of the *Protection of Rights (Services) Legislation Act 2016*, an Act which repealed the *Public Advocate Act 2005* and amended the *Human Rights Commission Act 2005* to include the functions of the Public Advocate.

In addition to the statutory position of the Public Advocate held by Ms Jodie Griffiths-Cook, she also holds the position of Children & Young People Commissioner.

Prior to 1 April 2016, the Public Advocate also held responsibility for the Guardianship Unit, which was transferred to the Public Trustee (now Public Trustee and Guardian).

Reporting on the work of the Guardianship Unit from 1 July 2015 to 30 June 2016 and the work of the Public Advocate from 1 July 2015 to 31 March 2016 will be completed by the new Public Trustee and Guardian and is not included in this report

Alongside the broader organisational and structural changes for the Public Advocate in the current reporting period, there were also numerous internal changes that saw a full turnover of staff. This brought with it a loss of corporate knowledge and challenges in undertaking the statutory oversight functions for which the Public Advocate has responsibility.

Further, these organisational challenges occurred at the same time as the introduction of the *Mental Health Act 2015* and the implementation of the Step up for Our Kids initiative, both of which further increase the oversight responsibilities for the Public Advocate.

Roles and functions

The Public Advocate's vision is to lead a caring community where the rights and interests of vulnerable people are protected.

The role of Public Advocate is given authority by division 3.7A of the *Human Rights Commission Act 2005* (HRC Act), with the following functions articulated in section 27B(1):

- a) to advocate for the rights of people with a disability and, as part of advocating for those rights, doing the following
 - i) fostering the provision of services and facilities for people with a disability
 - ii) supporting the establishment of organisations that support people with a disability.
 - iii) encouraging the development of programs that benefit people with a disability (including advocacy programs, educational programs and programs to encourage people to act as guardians and managers)
 - iv) promoting the protection of people with a disability from abuse and exploitation.
- b) to advocate for the rights of children and young people and, as part of advocating for those rights, doing the following:
 - i) fostering the provision of services and facilities for children and young people
 - ii) supporting the establishment of organisations that support children and young people
 - iii) promoting the protection of children and young people from abuse and exploitation.
- c) to represent forensic patients before the ACAT or a court
- d) to listen to and investigate concerns from children and young people about the provision of services for the protection of children and young people
- e) investigate matters in relation to which the public advocate has a function
- f) monitoring the provision of services for the protection of children and young people
- g) dealing, on behalf of people with a disability and children and young people, with entities providing services
- h) any other function given to the public advocate under this Act or any other territory law.

The Public Advocate also provides administration support through the Executive Officer for the Community Care Coordinator, a statutory position located in ACT Health.

Further to the responsibilities accorded to the Public Advocate under the HR Act, approximately 37 sections of the new *Mental Health Act 2015* and 39 sections in the *Children and Young People Act 2008* reference the Public Advocate.

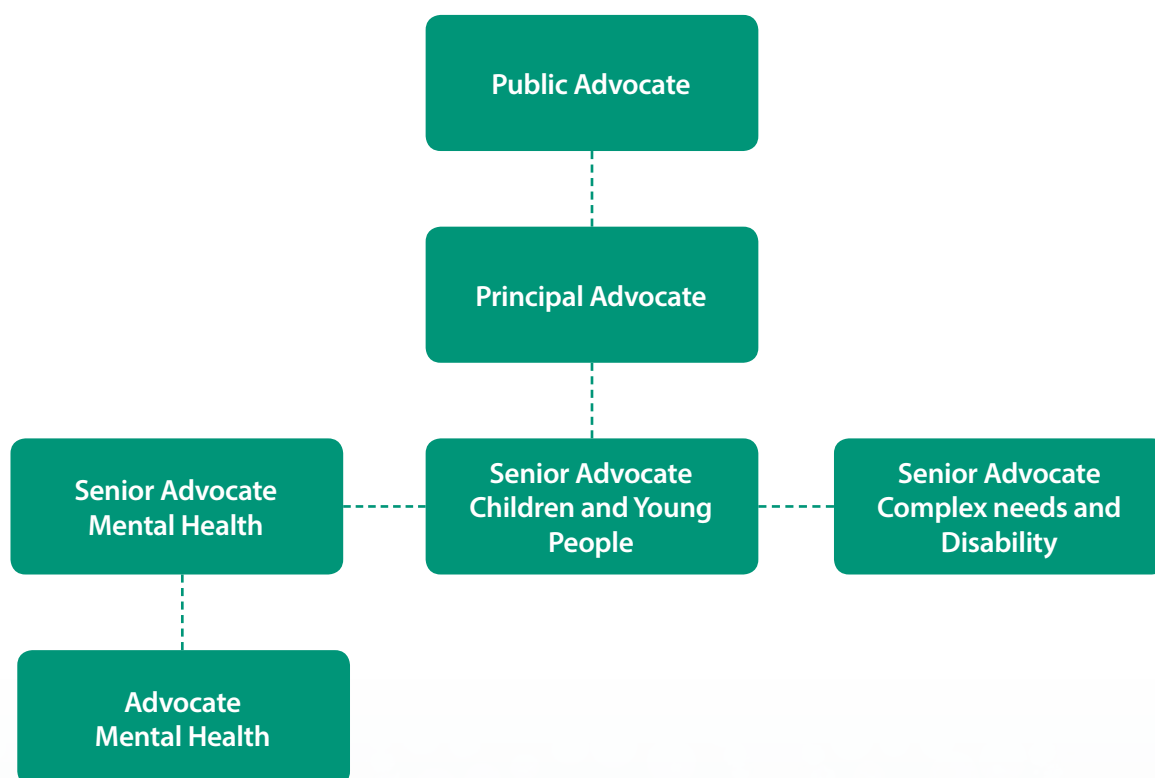
The work of the Public Advocate is reported against three key areas of activity, as follows:

1. advocate to protect the rights of people with complex needs
2. advocate to protect the rights of people within the mental health system
3. monitor the provision of services and advocate for children and young people.

Organisational structure

The office of the Public Advocate comprises a Principal Advocate and three senior advocates assigned to the jurisdictions of: Complex needs and disability; children and young people; and mental health and forensic. In the current reporting period, an additional ASO6 position was funded and created to meet the additional demands on the Public Advocate arising from the introduction of the new Mental Health Act which commenced on 1 March 2016.

Organisational diagram



Challenges

Over the coming year, the Public Advocate is anticipated to experience significant resourcing challenges as a result of the following:

- The implementation of the Step up for Our Kids initiative, which will see the Director-General of CSD transfer significant parental responsibility and case management functions to the five-agency consortium, ACT Together. These changes will require the Public Advocate to review and revise its oversight mechanisms to ensure their ongoing effectiveness.
- The NDIS is expected to complete its roll out within the ACT later in 2016. The role of the Public Advocate in respect of disability services following full implementation of the NDIS also requires review.

The low staffing levels with which the office of the Public Advocate operates will be further challenged by these changes, particularly in respect of the oversight responsibilities associated with ensuring that children, young people and adults who are experiencing vulnerability are sufficiently monitored and that effective safeguards are in place to prevent abuse, exploitation and neglect.

Advocate to protect the rights of people with complex needs

Foster the provision of services and facilities for people who have complex and intensive support needs by coordinating lead agencies in case management via the Management Assessment Panel (MAP) service if considered appropriate

Foster the provision of services and facilities for people who have complex and intensive support needs by coordinating lead agencies in case management via the Management Assessment Panel (MAP) service if considered appropriate.

The Management Assessment Panel (MAP) is a service of last resort that exists to facilitate the coordination of case planning and service provision for members of the community whose complex service needs are poorly coordinated or not adequately met. The MAP accepts referrals in relation to children, young people and adults with a disability and is a voluntary service. Referrals to the MAP will be premised on the existence of complex and challenging service provision needs that present personal risks or dangers.

The MAP will (when necessary) identify, ensure coordination of and negotiate service provision for eligible persons. It should be noted that the function of MAP is not to provide case management or provide a process for obtaining individual funding packages from government.

During 2015-16, MAP received significantly fewer referrals than in previous years with only one new MAP enquiry and one client receiving a service (Table 1.1). There may be a number of factors that have contributed to this reduction including (but not limited to):

- roll out of the initial NDIS packages, assisted by Plan Coordinators to ensure that the Plans for individuals are implemented
- significant numbers of complex matters being heard and managed through the ACAT where applications for various Community and Psychiatric Orders are heard. The individuals who are the subject of such matters and significant members of their treating team attend the ACAT, thereby contributing to the consideration of what the individual requires to be supported safely in the community.

During the period from 1 April 2016 to 30 June 2016, there was one new MAP enquiry however no further activity in relation to clients (Table 1.2).

The Public Advocate has recently commenced a review of the MAP with a view to considering how best to ensure its ongoing value in responding to children, young people and adults who have complex disability support needs.

Table 1.1 – MAP during the reporting year 1 July 2015 to 30 June 2016

Description	Number
Number of MAP clients in the reporting period	1
Number of new MAP enquiries	1
Number of MAP clients assisted by MAP conference	0
Number of MAP panels convened	0
Total number of MAP occasions of advocacy (including paperwork review)	6
Total number of MAP occasions of advocacy (excluding paperwork review)	5

Table 1.2 – MAP during the final quarter period (1 April 2016 to 30 June 2016)

Description	Number
Number of MAP clients in the reporting period	0
Number of new MAP enquiries	1
Number of MAP clients assisted by MAP conference	0
Number of MAP panels convened	0
Total number of MAP occasions of advocacy (including paperwork review)	0
Total number of MAP occasions of advocacy (excluding paperwork review)	–

Foster the provision of services and facilities by the coordination of services to people with disability via a Community Care Order

The Care Coordinator is responsible for coordinating the provision of treatment, care or support for a person with a mental disorder to whom a community care order applies. The Care Coordinator is also responsible for coordinating the provision of treatment, care or support for a person in relation to whom a forensic community care order is in force.

Community Care Orders (CCOs) and Forensic Community Care Orders (FCCOs) are made by the ACAT. The Executive Officer role for the ACT Care Coordinator is accorded to the office of the Public Advocate.

During the period 1 July 2015 to 30 June 2016, a total of eight people were subject to a Community Care Order (CCO) – six men and two women. There was one new community care order made in the reporting period 1.

One of the CCOs was referred by the Court and the other seven from clinical services. The reasons for referral were as follows: dementia (four); intellectual disability (three) and neurological disorder (one).

There were no forensic community orders made during the period from 1 April 2016 to 30 June 2016.

Table 1.3 – Community Care Orders 1 July 2015 – 30 June 2016

Male	Female	Total	New CCO	Age	Condition	Referring Agency	Restriction Orders
6	2	8	4	<18 (0)	Intellectual Disability (3)	Mental Health (3)	RO (7)
				19-29 (1)	Dementia (4)	OPMH (4)	
				30-39 (2)	Neurological condition other than dementia (1)	Courts (1)	
				40-49 (2)		ACT Health (0)	
				50-59 (1)			
				60-69 (1)			
				70-79 (0)			
				>80 (1)			

The Senior Advocate (Complex Needs) provides an Executive Officer role in relation to Community Care Orders, Community Care Forensic Orders and Restriction Orders.

The number of administrative functions for the Care Coordinator in the full 2015-2016 reporting period related to the above orders is 134. The number of administrative functions for the Care Coordinator in the last quarter (1 April 2016 to 30 June 2016) was 37.

Promote, support and foster the provision of services and facilities for people who may have a condition that makes them vulnerable to abuse, exploitation and neglect with key agencies via interagency collaboration and partnerships

Disability sector advocacy

The provision of advocacy by the Senior Advocate (Complex Needs) focuses on advocacy not captured by other monitoring or service provision undertaken by the Public Advocate (e.g. mental health, children and MAP). During the reporting period, the Senior Advocate (Complex Needs) provided disability advocacy to individuals both under and over 18 years of age.

The total number of adults with a disability provided with advocacy in the period 1 July 2015 to 30 June 2016 was 64, with 15 of these occurring between 1 April 2016 and 30 June 2016 (Figure 1.1). The total number of children and young people provided with disability advocacy in 2015-2016 was one.

Figure 1.1 – Disability access provided in 2015-2016

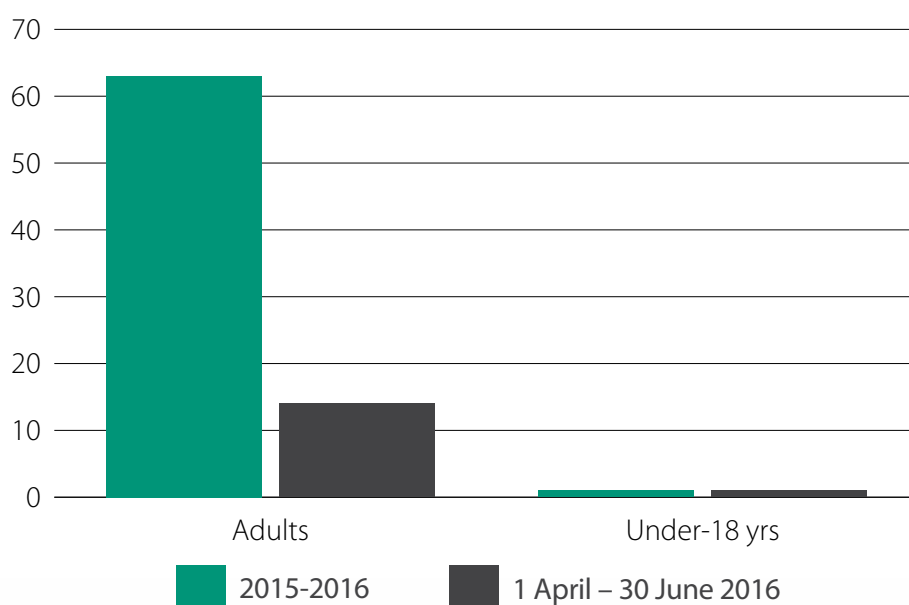


Table 1.4 – Disability advocacy provided to adults

	1 July 2015 to 30 June 2016	1 April 2016 to 30 June 2016
Total number of individuals provided with disability advocacy	64	15
Total number of instances of disability advocacy	116	28
Total number of instances of disability advocacy, excluding paperwork review	102	27

Table 1.5 – Disability advocacy provided to children and young people

	1 July 2015 to 30 June 2016	1 April 2016 to 30 June 2016
Total number of children and young people provided with disability advocacy	1	0
Total number of instances of disability advocacy provided to children and young people	1	0
Total number of instances of disability advocacy provided to children and young people, excluding paperwork review	1	0

Facilitate best practice and high standards of service for mental health consumers with complex needs within the Brian Hennessey Rehabilitation Centre, Calvary 2N and the Older Persons Mental Health Service

The Public Advocate and Children & Young People Commissioner (PACYPC) is in the process of initiating clinics in the Brian Hennessey Centre (BHRC) and the Older Person's Mental Health Unit (OPMHU) in Calvary Hospital.

The BHRC is scheduled for closure in two years. In July 2016, the PACYPC commenced fortnightly meetings with the Health Team leader and Clinical Nurse Consultant (CNC) in the centre as a means of establishing the PACYPC oversight role within the BHRC.

A monthly clinic is being initiated with consumers and their families, starting in August 2016. This is to provide both consumers and their family members with opportunities for direct discussion with the Public Advocate representative about any concerns or enquiries they may have about the transition process being implemented or any the issues they may wish to raise. The PACYPC meetings with BHRC will monitor the planning process for the closure of the BHRC and the transition planning for consumers to community based providers.

The PACYPC will commence monthly clinics in the OPMHU from August 2016 to provide a direct service to consumers and Woden Community Services and this will be expanded to include the wider community sector over the coming year.

Management Assessment Panel Chair's Annual Report

There are two related processes in the ACT for the resolution of problems in coordination of case planning for individuals with complex needs –

MAP – the first established historically is the MAP (established in 1996), which does not have a statutory base, and in essence relies on inter-agency cooperation and the *Public Advocate Act 2005* (now repealed with provisions forming part of the Human Rights Commission Act 2016).

Care Coordination Panel – within less than two years The ACT Government saw the need for a parallel process to the *Mental Health (Treatment and Care) Act 1994* provisions for Psychiatric Treatment Orders. The Panel was established under amendments to the Act, deals with individuals with a mental dysfunction, and based on the decision of the ACT Civil and Administrative Tribunal (ACAT) to place an individual under a Community Care Order.

PACYPC provides administrative support for both Panels under the appointed Chair for both Panels – Ms Marie Coleman AO PSM.

MAP continues to promote and facilitate coordination and cooperation between all service providers in the ACT, enabling people with complex service needs to access integrated support, resources and accommodation to live with minimum restrictions and maximum satisfaction in the community.

This has been a period of significant change. The re-structure of the Public Advocate functions between the Office of the Public Trustee and the ACT Human Rights Commission has meant significant changes of personnel, of physical location, and contacts for referral from Guardians.

The MAP and CCO functions are now located with the ACT HRC, within the purview of the Public Advocate and Children & Young People Commissioner.

The external environment has also changed with the roll-out of the National Disability Insurance Scheme and the further consolidation of MyAgedCare, both fully funded Commonwealth programs, and both with the philosophical objective of moving to a user pays, client directed system of service access.

There remain, however, groups of individuals with complex needs who are not eligible for the NDIS, as well as those eligible for some assistance, but not other essential supports.

There is some confusion in the community around eligibility and around access to support services

In consequence, while the MAP is actively seeking to promote knowledge of its role with different groups of consumers and service providers, we are also undertaking a review of procedures so as to ensure there is an appropriate 'fit' in the new environments.

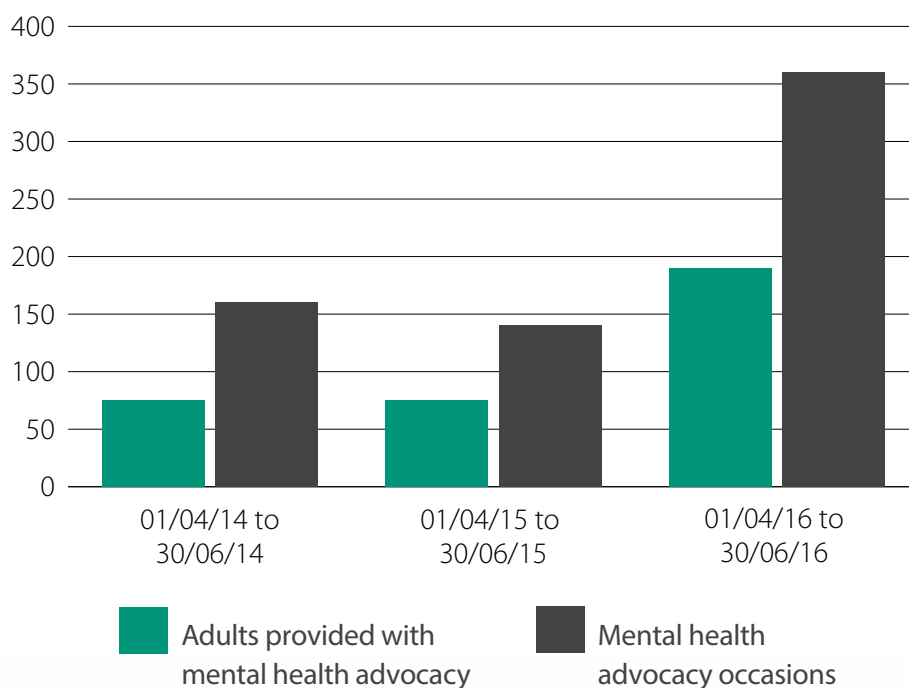
Marie Coleman AO PSM

Advocate to protect the rights of people within the mental health system

To facilitate best practice and high standards of service for mental health consumers brought to the attention of the Public Advocate, particularly those at AMHU, Calvary 2N, BHRC and OPMHIU

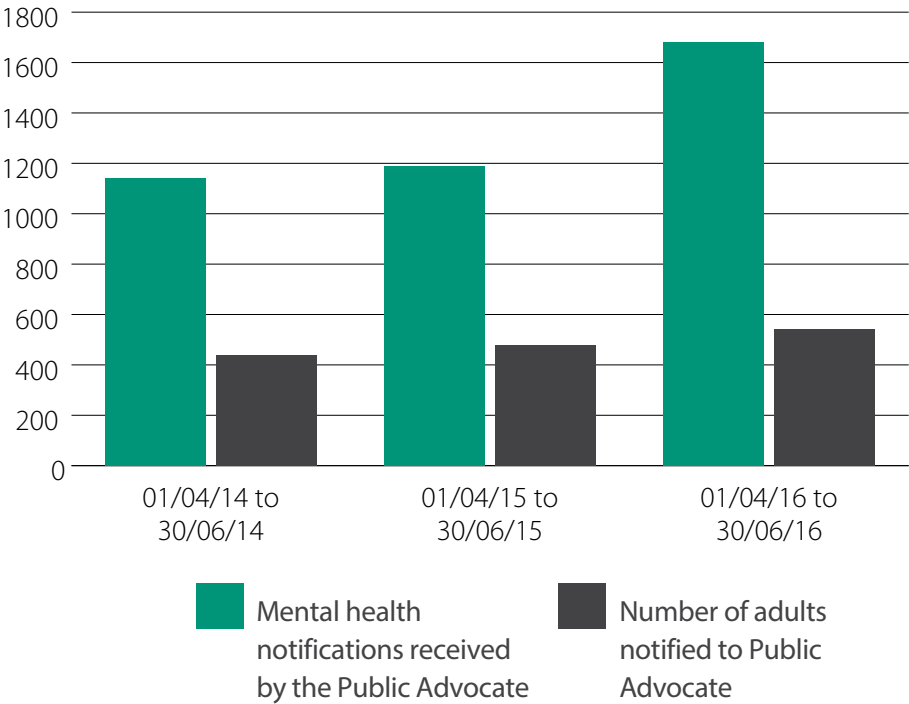
During the reporting period from 1 April 2016 to 30 June 2016, PACYPC staff provided individual advocacy to 189 adults identified as requiring specific mental health advocacy, on 364 advocacy occasions. This is an increase of 58% of adults provided with mental health advocacy and a 62% increase in mental health advocacy occasions in comparison to the same quarter in the previous reporting period (Figure 2.1).

Figure 2.1 – Comparison of individual advocacy in the fourth quarter in each of the last three years



From 1 April 2016 to 30 June 2016, the PACYPC received 1678 notifications in relation to 535 individuals (Figure 2.2). The notifications received during this reporting period were made under the new *Mental Health Act 2015* that came into effect on 1 March 2016. The total number of notifications has increased by 29% when compared to the same quarter in 2014-15. By comparison, the difference between the last quarter figures in 2013-2014 and 2014-2015 only represented a 2.7% increase under the previous Mental Health Act.

Figure 2.2 – Comparison of mental health notifications received in the fourth quarter in each of the last three years



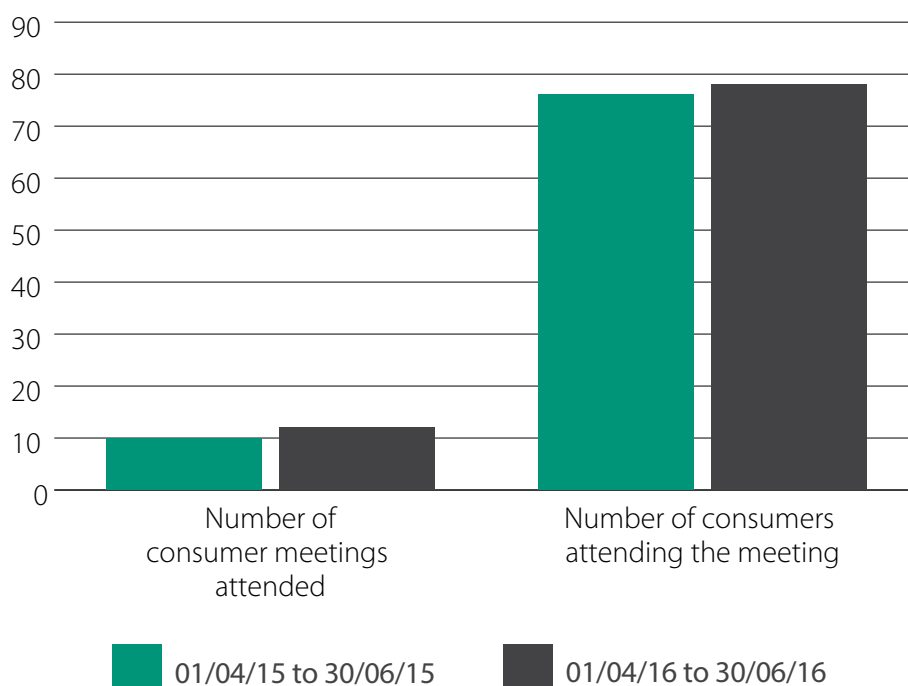
The Public Advocate was notified about 488 individuals in the fourth quarter of 2014-2015 compared to 535 in the fourth quarter of 2015-2016; this represents a 9% increase. This increase was anticipated as the new mental health legislation allows guardians to accept treatment on behalf of people who do not have decision making capacity but accept treatment.

The Canberra Hospital Clinic

The PACYPC holds a weekly clinic in the Adult Mental Health Unit (AMHU) in The Canberra Hospital (TCH). PACYPC staff participate in the consumer morning meetings at AMHU and during this reporting period PACYPC staff have attended 12 meetings and provided information to 77 consumers (Figure 2.3). The information provided to consumers has been in relation to the new *Mental Health Act 2015* and consumer's rights and responsibilities under the new legislation.

When visiting the TCH, PACYPC staff review the seclusion register at the Mental Health Short Stay Unit (MHSSU) and also the Secure Assessment Pod (SAP) at the Emergency Department. PACYPC staff use this as an opportunity to meet with and provide advocacy for consumers in these new units.

Figure 2.3 – Consumer meetings attended in (AMHU) in The Canberra Hospital (TCH) in the fourth quarter of 2014-2015 and 2015-2016



Review mental health compliance with *Mental Health (Treatment and Care) Act 1994* and *Mental Health Act 2015* undertaking follow up where indicated

As reported in our previous annual report, the PACYPC has progressed work in establishing clinics in the Calvary Hospital Campus, for both the Older People's Mental Health Unit (OPMU) and Brian Hennessey Rehabilitation Centre, as part of establishing the Public Advocate oversight role in both these facilities. The first two meetings with the OPMHU were cancelled due to staff sickness in the Hospital.

Foster the provision of services and facilities to mental health consumers within the justice system through advocacy that represents their needs

Alexander Maconochie Centre Clinic

In this reporting period, the PACYPC has continued to hold clinics at the Alexander Maconochie Centre (AMC) on a fortnightly basis, with PACYPC staff visiting detainees and meeting with health professionals. During this reporting period, PACYPC staff met with two detainees (Figure 2.4). In addition, PACYPC staff provided forensic advocacy to 12 individuals with a disability living in the community. In total the PACYPC provided forensic advocacy to 26 individuals on 85 advocacy occasions (Figure 2.5).

Figure 2.4 – Comparison of AMC clinics held and detainees seen in the fourth quarter in each of the last three years

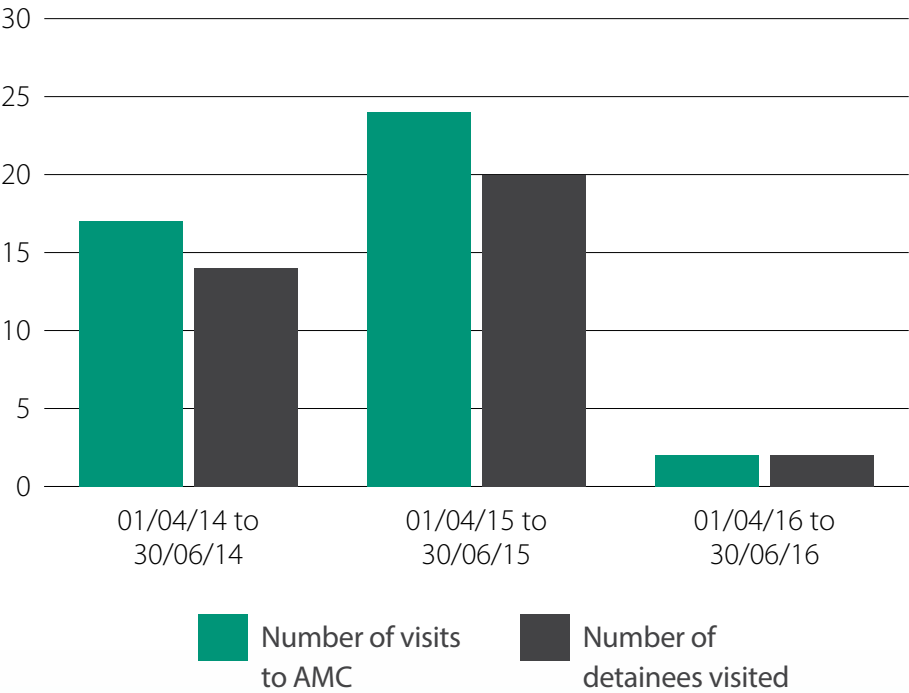
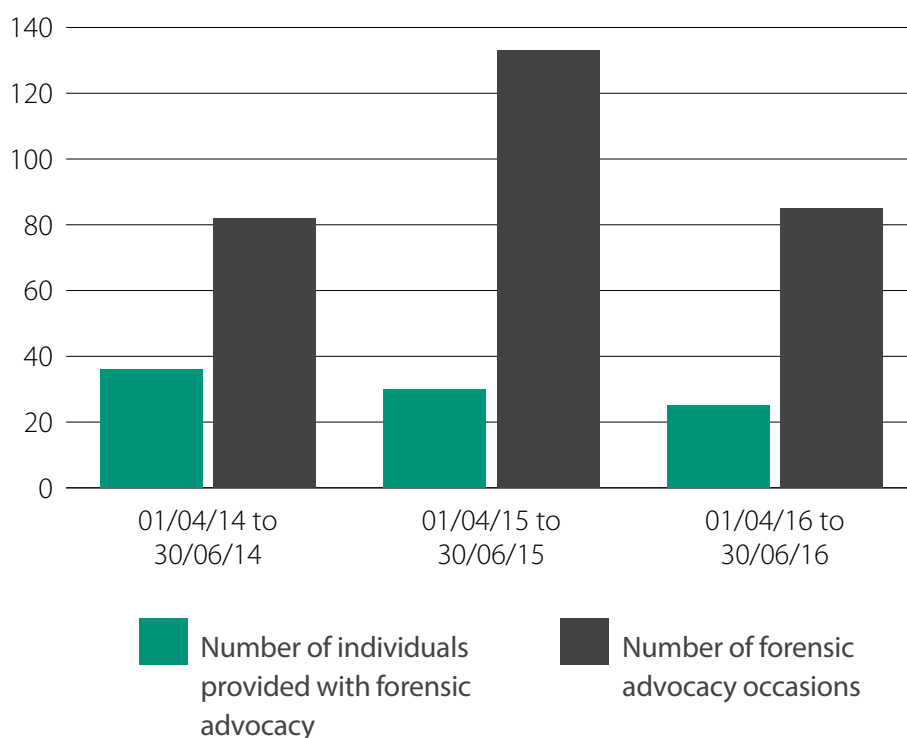


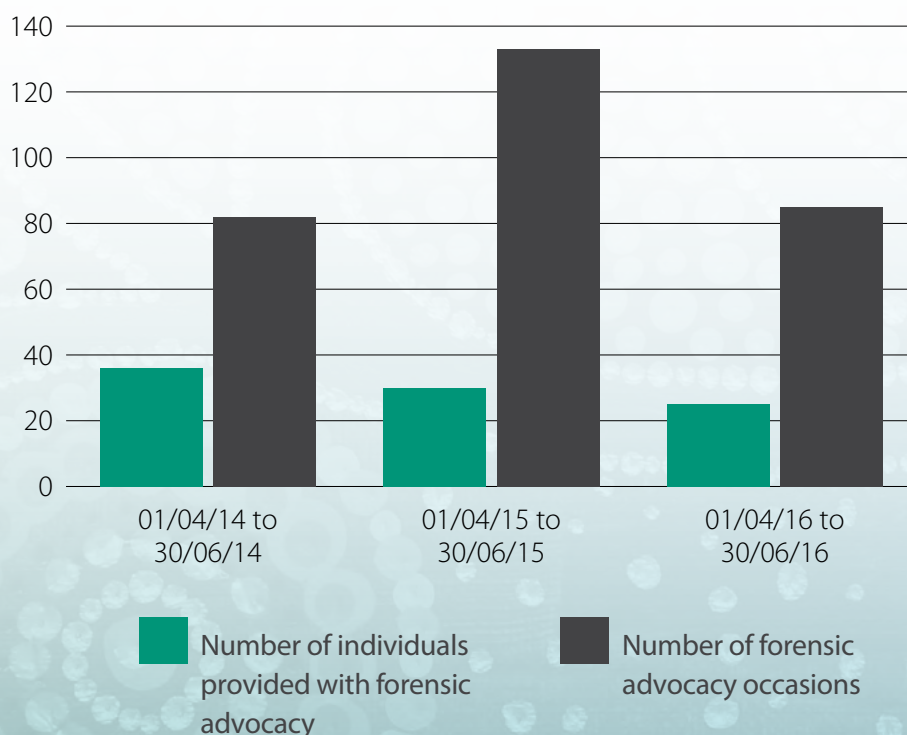
Figure 2.5 – Comparison of the number of occasions of forensic advocacy undertaken in the fourth quarter in each of the last three years



The PACYPC has developed a clinic for detainees at the Special Care Unit in the AMC. This unit houses detainees who have been identified as needing support from specialist services. The aim is for the PACYPC to monitor the individual case management and release plans, and to follow their progress in the community if they continue to engage with services in the ACT.

During this reporting period PACYPC staff attended ten mental health hearings where forensic matters were discussed and provided advocacy to nine individuals at the ACAT (Figure 2.6).

Figure 2.6 – Comparison of the number of ACAT hearings attended in relation to forensic matters in the fourth quarter in each of the last three years



Alexander Maconochie Centre Project

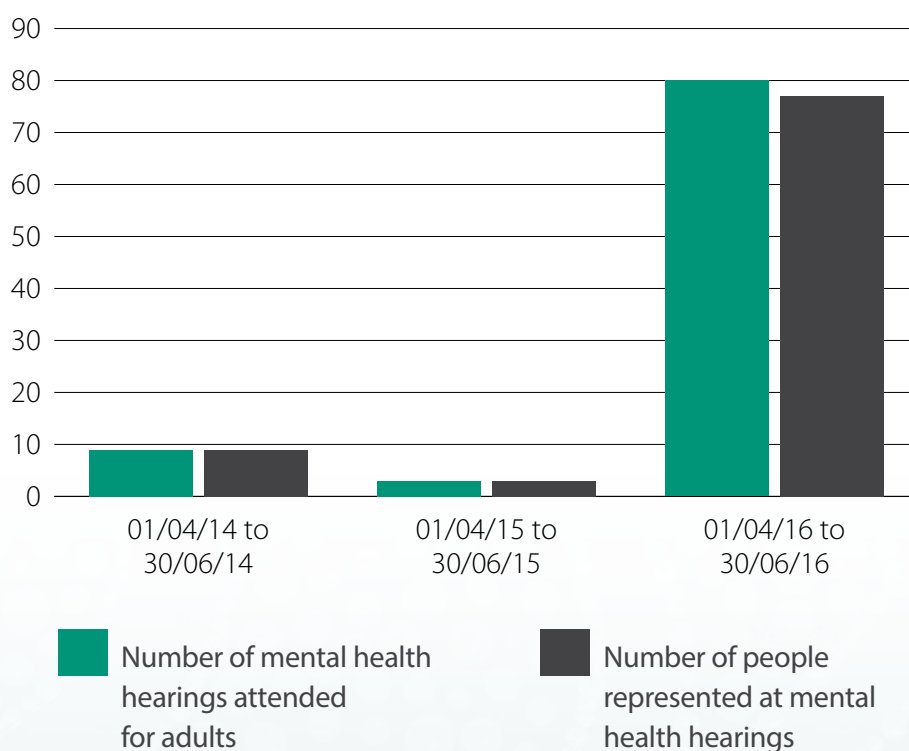
The PACYPC, in conjunction with other stakeholders in the AMC, have identified that homelessness appears to be a problem affecting a number of detainees with mental health and/or intellectual disability entering the prison system. This raises concerns over how well this vulnerable group are supported on release from prison. At this stage the information available is anecdotal.

In partnership with ACT Health in the AMC, the PACYPC aims to gather data on this vulnerable group as they enter the system and monitor their supports when they are released back into the community. The project is in its initial stages with the PACYPC exploring the extent of the issue by collecting data over an initial three-month period. The project will be reviewed in October 2016.

To protect the rights of the clients by ensuring that the expressed views and best interests of the person are presented to the ACAT Mental Health Tribunal

In the reporting period from 1 April 2016 to 30 June 2016, PACYPC staff have attended 80 mental health hearings for 76 adults. This period followed the new *Mental Health Act 2015* coming into effect (Figure 2.7).

Figure 2.7 – Comparison of the number of ACAT hearings attended in relation to mental health matters in the fourth quarter in each of the last three years



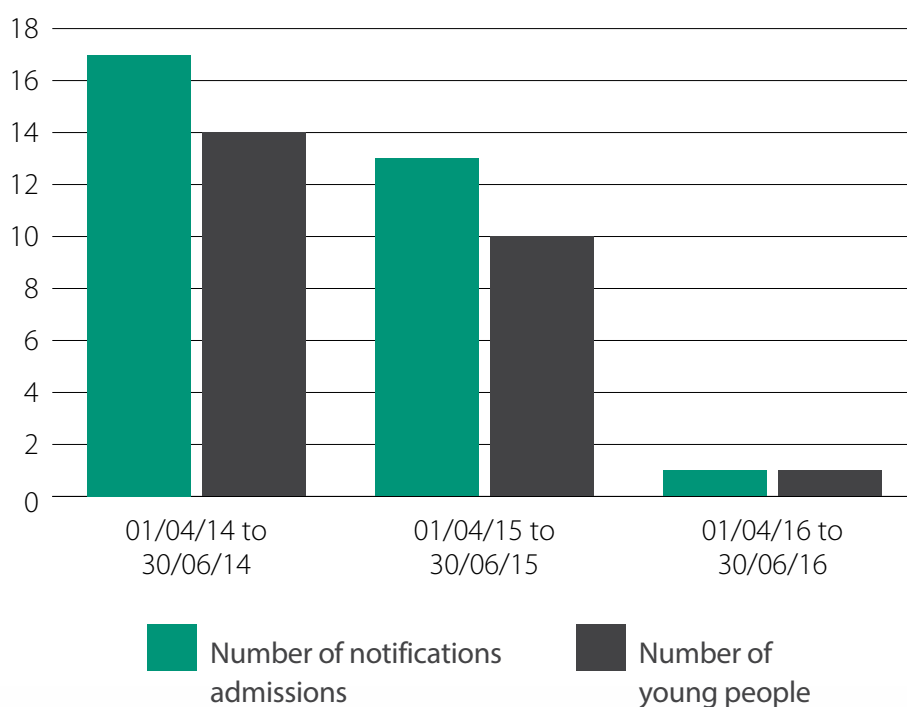
There are a number of individuals in the community who have their cases heard at the ACAT but do not attend their mental health hearings. As a means of supporting these individuals, the PACYPC now writes to consumers for whom we have a current address to offer advocacy support. In this reporting period the PACYPC has written to 30 individuals and 2 people have taken the opportunity to receive our support.

Foster and promote quality service provision for children and young people who come to the attention of mental health facilities/services in the ACT

Youth specific mental health advocacy

As part of The Canberra Hospital Clinic, PACYPC staff visit young people in hospital within 48 hours of their detention under involuntary orders. During this reporting period, the PACYPC received one notification in relation to a young person under involuntary orders. This period's low number of notifications is consistent with the low number of notifications received in the last two reporting periods (Figure 2.8).

Figure 2.8 – Comparison of the number of notifications received in relation to young people detained under mental health legislation in the fourth quarter in each of the last three years



The PACYPC has a close working partnership with Child and Adolescent Mental Health Services (CAMHS) and over this reporting period has met on five (5) occasions and discussed the mental health needs of 26 children and young people (Figure 2.9). PACYPC staff have also provided advocacy to nine young people on 14 advocacy occasions (Figure 2.10).

Figure 2.9 – Comparison of the meetings held with CAHMS in relation to young people receiving inpatient treatment and the number of young people discussed in the fourth quarters of 2014-15 and 2015-16

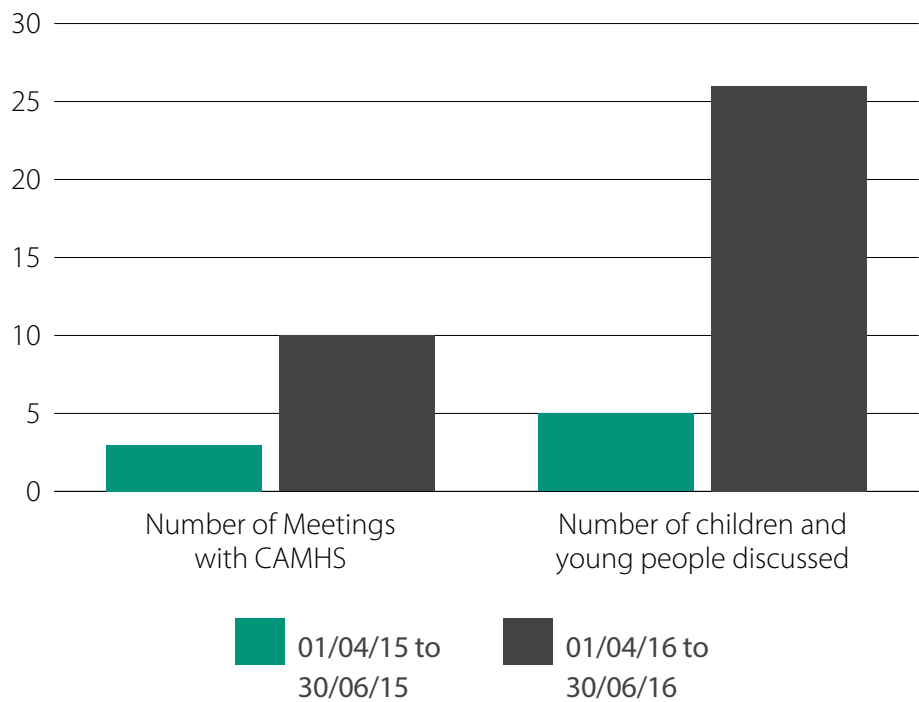
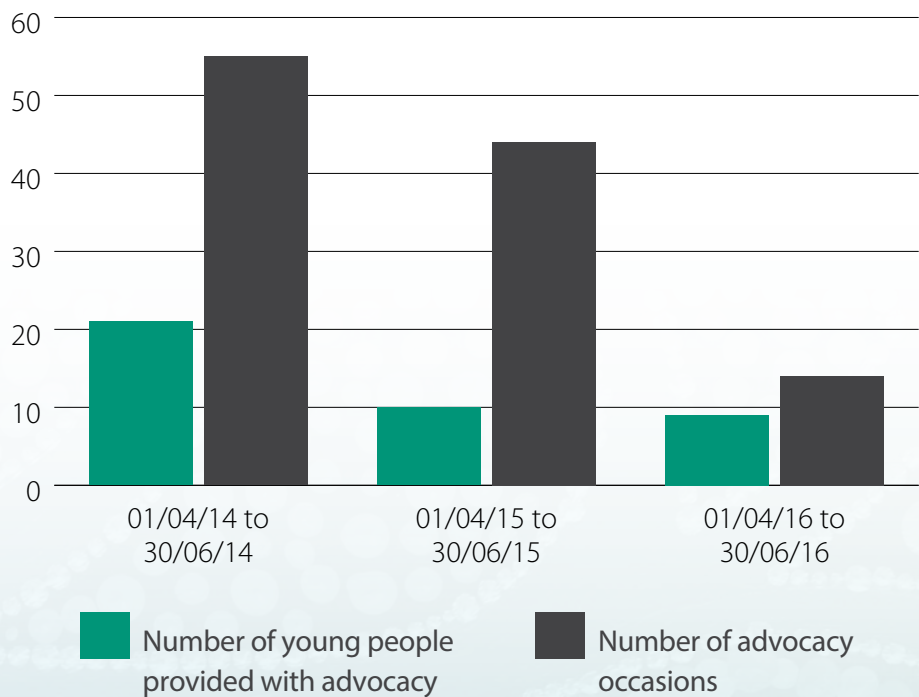


Figure 2.10 – Comparison of the number of occasions of advocacy provided to young people receiving inpatient mental health support in the fourth quarter in each of the last three years



The PACYPC has initiated a monthly meeting with CAHMS and Child Youth Protective Services (CYPS) to monitor and collect information on the CAHMS services to children and young people in out of home care and to identify any possible gaps that may exist in the service. Over the first three months, the PACYPC will pay particular attention to the mental health services provided to children and young people in residential care. The PACYPC will review this in three months.

Monitor the provision of services and advocate for children and young people

Step up for our Kids' Out of Home Care Strategy

The PACYPC has met with senior officers from the Community Services Directorate (CSD) on a number of occasions to be briefed on the progress of the strategy. The Executive Director, CSD agreed to provide the PACYPC with a copy of the joint governance agreement between CSD and ACT Together. The PACYPC understood from the Director of the Out of Home Care taskforce that the Outcomes Framework would be finalised by the group in June 2016. The PACYPC understands that the joint governance arrangements between CSD and ACT Together are not yet in place.

The PACYPC recognises the significant challenges in putting in place effective oversight processes for the new initiative being implemented through Step up for Our Kids. The PACYPC only has the resource of one senior advocate to monitor this and recognises that this will be insufficient to the challenges presented with over 600 children and young people in out of home care.

Notwithstanding the above challenges, the PACYPC is in the process of meeting with the individual partners in the ACT Together Consortium. To date, the PACYPC has met with the Senior Manager from Barnardos and CEO of Premier Youth Works (PYW). In addition, the PACYPC has also met with the CEO of Uniting. These meetings were positive with agreement from the two ACT Together partners for ongoing dialogue as the Step Up for our Kids initiative is rolled out.

Individual monthly meetings with Barnardos and PYW have been set up to develop oversight and collaborative working arrangements as part of the PACYPC oversight functions. It is anticipated that this will assist with ongoing monitoring, advocacy, and support for children or young people in residential and foster care in the ACT. In addition, the PACYPC has agreed with Uniting for monthly meetings between the respective agencies to develop collaborative and oversight processes.

Section 494 of the Children and Young People Act 2008 – Annual Review Reports for children and young people in Out of Home Care in the ACT for whom the Director-General (CSD) has parental responsibility

Section 497 of the *Children and Young People Act 2008* states that Annual Review Reports (ARRs) must be provided to the Public Advocate. Section 494 of the *Children and Young People Act 2008* defines an annual review report as a report about the circumstances and living arrangements of a child or young person who is the subject of the care and protection order, and whether the Director-General of CSD considers the existing arrangements for the care and protection of the child/young person are in the best interests of the child/young person.

Section 495 of the *Children and Young People Act 2008* states:

'The Director-General must prepare an annual review report for a reviewable care and protection order for a child/young person if:

The order is in force for one (1) year or more by, but not earlier than one (1) month before, the anniversary of the day the order was made, in each year the order is in force

The order is in force for less than one (1) year – at least one (1) month, but not earlier than two (2) months, before the order expires.

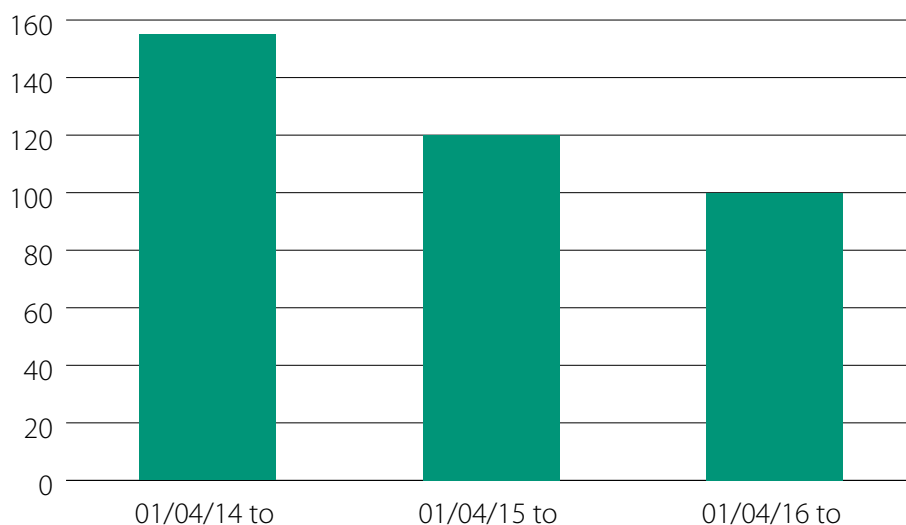
OCYFS has continued to identify and complete overdue ARR to ensure that where an ARR was submitted on the incorrect date for 2014-2015, the period for 2015-2016 ARRs will have either slightly longer or shorter reporting periods to bring the reporting periods into alignment by 2016-2017 reporting period. This will ensure that there are no gaps in the child or young person's record.

OCYFS has continued to make progress with the ARRs and most of the ARRs include a photograph of the child or young person with their permission. The language used to write the annual review reports is more child friendly and most of the ARRs include a comprehensive outline of the events that the child or young person participated in during the review period. This continued progress means that those children and young people whose reviews have been subject to the quality assurance process will have a comprehensive and substantiated record of the events that occurred during the particular year of their lives.

As the Step up for Our Kids is rolled out, Barnardos will have lead responsibility in ACT Together for providing annual review reports for children and young people on Care and Protection Orders until they turn 18 years of age. The PACYPC and ACT Together will work collaboratively to ensure arrangements are in place for the ongoing legislative compliance. The PACYPC has set up monthly meetings with Barnardos to develop and monitor systems in his area.

The PACYPC database records state that the total number of ARRs received for the period 1 April 2016 to 30 June 2016 was 104 (Figure 3.1). Data reconciliation with OCYFS, Quality, Practice and Compliance Unit determined that 104 ARRs had been forwarded to the PACYPC for the reporting period.

Figure 3.1 – Total number of ARR in the fourth quarter in each of the last three years



A total of 104 ARR received were triaged by the PACYPC. This means that the reviews were subjected to an initial review process and 101 (97%) were reviewed in their entirety during this reporting period.

The PACYPC has only one senior advocate position to undertake the review of annual review reports. This is very time consuming for one staff member and needs to be prioritised with other competing demands for advocacy.

Section 529 of the *Children and Young People Act 2008* – Leaving Care Plans

Leaving Care Plans continue to be monitored by the PACYPC. During this reporting period, the PACYPC has received one leaving Care Plan for a young person who attained the age of 18 years and for whom the Director-General, CSD, ceased to have parental responsibility. The PACYPC has discussed leaving care planning with the ACT Together lead agency, Barnardos, and this will form part of the ongoing monthly meetings set up to monitor not only annual review reports, but also leaving care planning.

Section 507 of the *Children and Young People Act 2008* – Reports of allegations of abuse in Out of Home Care for children or young people for whom the Director-General, CSD has parental responsibility

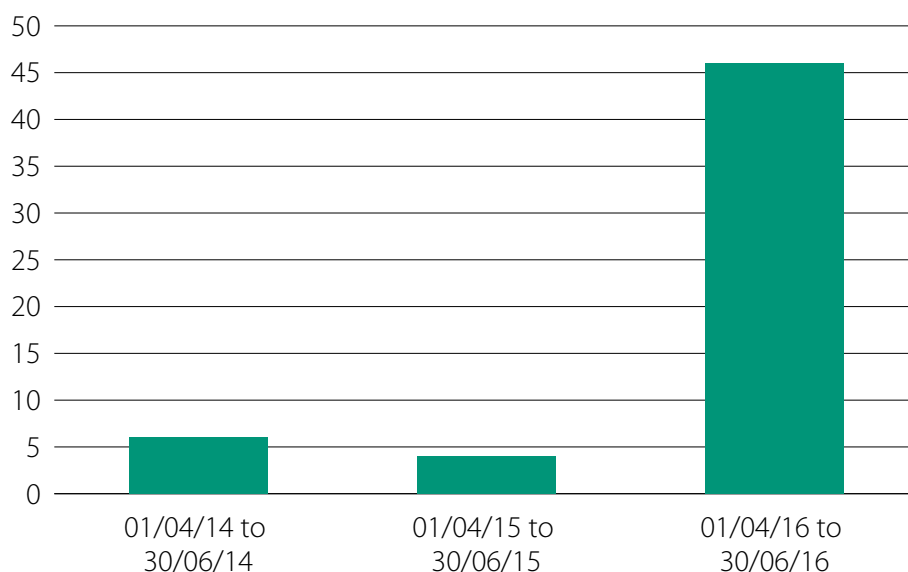
The PACYPC received 11 separate notices of children and young people reported under section 507 which relates to abuse or neglect of a child or young person in Out of Home Care. Six (6) section 507 reports of abuse or neglect for four children and young people in Out of Home Care were substantiated, whilst five reports were not substantiated. These reports were made in respect of 17 individual children or young people. Data reconciliation with OCYFS, Quality, Practice and Compliance Unit determined that 11 notices reported under section 507 had been forwarded to the PACYPC for the reporting period.

Section 879 of the *Children and Young People Act 2008* – Requests for information

The section 879 requests were made in response to information being brought to the attention of the PACYPC and the need to determine whether further advocacy or involvement by the PACYPC was required. The request for information was requested as a result of a review of documents, referrals and requests for advocacy made directly to the PACYPC.

During the reporting period, the PACYPC made 48 requests for information or documents with respect to 47 individual children and young people (some requests were for sibling groups). Data reconciliation with OCYFS Quality, Practice and Compliance Unit determined that 48 section 879 requests had been forwarded to the PACYPC for the reporting period. This represents an increase in the number of section 879 requests for information in comparison to previous reporting periods (Figure 3.2).

Figure 3.2 – Section 879 requests in the fourth quarter in each of the last three years



Section 879 of the *Children and Young People Act 2008* provides that ACT child welfare services must assist the Public Advocate as follows:

1. *For the purpose of exercising a statutory function, the Public Advocate 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.*
2. *If the Public Advocate makes a request of an ACT child welfare service under subsection (1), the service must comply with the request promptly.*

The PACYPC is working with the Director of OCYFS on a communication protocol that will address different pathways of information sharing and the issue of timescales in the provision of information to the PACYPC.

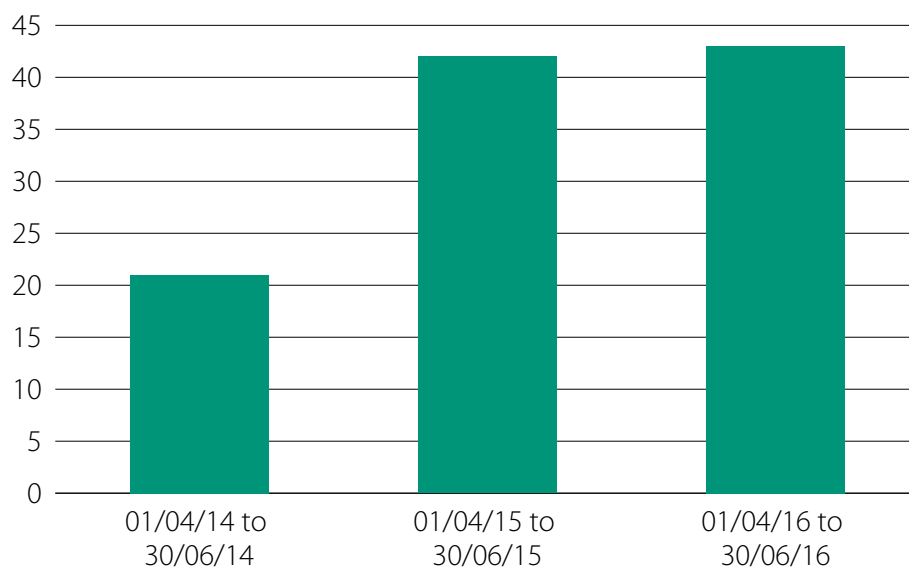
Out of the 48 requests for information for individual children or young people, there were eight requests for six children or young people in relation to section 507 allegations of abuse in care reports, and three requests for eight children or young people in relation to section 408 emergency action. The remaining 37 requests for children or young people were in relation to information received by the PACYPC including: originating applications/affidavits and other court documents; concerns/requests from community members; requests to be part of a care conference/declared care team; discontinued applications for appraisal orders and post-release/transition planning for young people in the Bimberi Youth Justice Centre.

Section 408 of the *Children and Young People Act 2008* – Notification of emergency action

The PACYPC received notification of 44 instances of emergency action under section 408 of the *Children and Young People Act 2008*. Of the 44 instances of emergency action taken on individual children or young people, 22 were aged two years and under, whilst 19 were aged between three to 11 years. The number of young people aged 12 years and over removed by way of emergency action was three.

Of the 44 instances of emergency action taken, 23 children or young people were removed from the family home due to domestic/family violence. Of the children or young people removed due to domestic/family violence, PACYPC staff attended the Children's Court following emergency action for 14 children or young people taken due to domestic/family violence. This represents the PACYPC attending the Children's Court for 61% of emergency actions related to domestic/family violence.

Figure 3.3 – Notices of emergency action in the fourth quarter in each of the last three years



Section 74K of the *Court Procedures Act 2004* – Statement of reasons

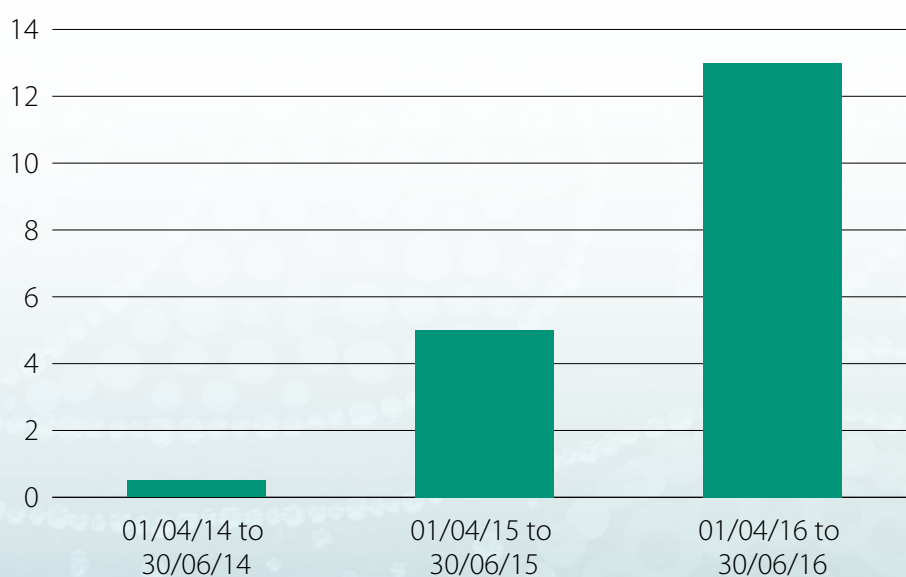
The Children's Court Magistrate can request that the Director-General of CSD undertake a statement of reasons for action if, when hearing an indictment against a child or young person, the court is satisfied that the child or young person is in need of care and protection. The Children's Court Magistrate may dismiss the indictment or adjourn the proceeding for up to 15 days until the statement of reasons is provided by the Director-General. The PACYPC receives a copy of the statement of reasons for action.

The PACYPC was notified by the ACT Children's Court Magistrate of two matters where young people attended the Court for criminal proceedings. Due to safety and wellbeing concerns, the Magistrate adjourned the matter, on both cases, for 14 days for further investigation and a report from the Director-General, CSD.

Section 359 of the *Children and Young People Act 2008* – Mandated reporter

The PACYPC made 13 section 359 reports to Child and Youth Protection Services as a Mandated reporter.

Figure 3.4 – Mandated reports to OCYFS in the fourth quarter in each of the last three years



Provide individual advocacy on behalf of children and young people when assessed as required.

During the reporting period, 388 children and young people were brought to the attention of the PACYPC. The PACYPC undertook work on behalf of 368 (95%) of those children and young people. This work was inclusive of reviews of all documents provided and resulted in 1124 occasions of advocacy.

PACYPC staff provided direct advocacy for 109 (28%) of the children and young people with 207 occasions of advocacy undertaken for individual children and young people.

Section 74c of the Court Procedures Act 2004 – PA ACT's attendance at ACT Children's Court

PACYPC staff attended 62 separate Case Management Conferences (CMC) and hearings for 50 individual children or young people. This is an increase in comparison with the previous annual reporting period. The number of matters placed before a magistrate was 11.

Foster the provision of suitable and best practice youth detention and youth shelters in the ACT and advocate for improvements in the standards of service provision regarding youth justice facilities, more generally.

Over this reporting period, the number of young people detained in Bimberi Youth Justice Centre on a weekly basis has increased. Additionally, there was an incident on 6 May 2016 involving three young people that raised concerns for the PACYPC. This is detailed under notice of segregation section.

PACYPC staff have conducted a number of visits to young people at the Bimberi Youth Justice Centre providing advocacy support and monitoring. PACYPC staff undertook 53 occasions of advocacy for ten young people detained in Bimberi Youth Justice Centre. PACYPC staff conducted visits to eight young people in the Centre on 24 occasions.

Whilst attending the Bimberi Youth Justice Centre, the PACYPC also conducted inspections of the registers associated with the 'Use of Force' and 'Searches'. Out of the ten restraints/use of force conducted, there were six (6) restraints/use of force templates where the recording of information for three young people is inaccurate.

Out of the 14 strip searches conducted, there were: three young people strip searched due to suspicion of contraband; three young people due to concerns related to self-harm; three young people due to induction; four young people due to returning from court and one had no reason mentioned for the strip search. No contraband was found on any of the young people.

Section 207 – Notices of segregation

The PACYPC received three Notices of Segregation from the Bimberi Youth Justice Centre. These notices involved three young people. The periods of segregation ranged from seven days to 39 days. One young person spent 39 days in segregation whilst two young people each spent 15 days in segregation. The average number of days in segregation was 23 days.

The total period of segregation for one young person was up to 39 days and this length of time was of concern to the PACYPC. In addition to this segregation, two other young people were also subject to a segregation period of up to 15 days.

The PACYPC met with the Executive Director and Director of OCYFS on 17 May 2016 to be briefed on the issues surrounding the segregation of the three young people on 6 May 2016. The PACYPC understood from this meeting that the reasons provided on 6 May 2016 for the segregation were inaccurate and that the three young people had been subject to "unsanctioned" use of force. This concern was not known until after the three young people had been in segregation for over seven days.

The PACYPC is providing close individual advocacy to the three young people who have lodged complaints in relation to their treatment. The PACYPC continues to provide individual advocacy and support to the three young people and understands that the circumstances surrounding the incident on 6 May 2016 is now subject to three separate external enquiries, including an investigation by the AFP.

The PACYPC has raised the issue of the initial notification for segregation of the three young people being an inaccurate account of the incidents and has requested an amended copy of the initial notification of segregation on 6 May 2016.

Official Visitor for Children and Young People

The PACYPC continues to work collaboratively with the Official Visitor for Children and Young People who regularly visits Bimberi Youth Justice Centre and some residential care settings for young people. This seeks to ensure that there is no duplication of functions and avoids confusion for young people. It also facilitates the referral of young people to PACYPC if the Official Visitor for Children and Young People considers that individual advocacy is required.

Meetings

The PACYPC continues to prioritise attendance at bi-monthly meetings with the Director of OCYFS to facilitate the resolution of issues and to discuss positive initiatives at Bimberi Youth Justice Centre.

Bimberi Youth Justice Centre External Oversight Agencies Group

During the reporting period, the PACYPC hosted a monthly meeting between the Children & Young People Commissioner, the Official Visitor for Children and Young People, and the Discrimination, Health Services, Disability & Community Services Commissioner to discuss issues of mutual interest regarding the Bimberi Youth Justice Centre and the broader system, so as to work together on issues of individual and/or systemic concern.

Foster and support the establishment of organisations, services and programs that support people with a disability and children and young people to promote best practice standards and quality responses.

Section 32 of the Domestic Violence and Protection Orders Act 2008 - Domestic Violence and personal Protection Orders received from the ACT Magistrates Court

Section 32, part 1 of the *Domestic Violence and Protection Orders Act 2008* states that with an Interim Order, and where respondents with a legal disability applies, the ACT Magistrate Court must tell the Public Advocate about the respondent, including the respondent's details; and the return date of the application.

The PACYPC has received and reviewed 23 documents for 22 individuals in relation to Domestic Violence, Personal Protection Orders or Workplace Orders. Out of the 23 documents reviewed, 11 were for young people, whilst the remainder were for individuals over the age of 18 years.

The PACYPC has attended several matters at the ACT Magistrate Court in relation to applications for Domestic Violence or Personal Protection Orders. This continues to present the PACYPC with workload implications, due to the complexity of some matters. The PACYPC undertakes this review and provides best interests advocacy where required, although no additional resources have been provided to facilitate this.

Litigation Guardian Request

During this reporting year, the PACYPC has received one request from the Magistrate's Court for the PACYPC to be a young person's Litigation Guardian.

Interview Friends Program

In this reporting period, PACYPC staff worked closely with Anglicare's Daytime Interview Friends Program and conducted training with a number of their staff. The PACYPC acknowledges Anglicare's commitment and support in the delivery of this valuable community program for vulnerable people aged 12-25 years.

The PACYPC is in the process of transferring the administration of the After-Hours program to Anglicare who already administer the Daytime Interview Friends Program. It is anticipated the transfer will be completed by July 2016. The PACYPC will maintain a training and support role to the Daytime Interview Friends Program.

The PACYPC initiated a meeting between the three Interview Friends Programs: Public Advocate; Anglicare and Aboriginal Legal Services with an agreement to meet bi-annually to share experiences and learning and to develop joint training between the programmes. These meetings are ongoing.

B3: SCRUTINY

During the reporting period, there were no inquiries or reports by the ACT Auditor-General, the ACT Ombudsman, or Legislative Assembly Committees that related to the operation of the Commission.

B4: RISK MANAGEMENT

All Commissioners regularly review the Commission's Risk Management Plan. The Risk Register was updated on 26 February 2016. The Commission has commenced the process of updating its Risk Management Plan, Risk Register and Business Continuity Plan to reflect the restructured Commission.

B5: INTERNAL AUDIT

The JACSD internal audit policies and procedures apply to the Commission and are detailed in the Directorate's 2015-2016 Annual Report.

B6: FRAUD PREVENTION

During the reporting period, there were no reports or allegations of fraud directed at the Commission.

The JACSD fraud control policies and procedures apply to the Commission and are detailed in the Directorate's 2015-2016 Annual Report.

B7: WORK HEALTH AND SAFETY

During the reporting period, the Commission operated in accordance with a range of internal policies and procedures relevant to workplace health and safety and was not issued with an improvement, prohibition, or non-disturbance notice under Part 10 of the *Work Safety Act 2011*.

The Commission also operated under a number of JACSD policies and procedures, and during the reporting period, had a fully qualified: Fire Warden; First Aid Officer; Respect, Equity and Diversity Contact Officer; and Health and Safety Representative on staff. Our Health and Safety Representative attended the full workplace health and safety training from 10-14 August 2015.

During the reporting period, the Commission undertook a number of activities to monitor and improve workplace health and safety, including:

- listing workplace health and safety as a standing agenda item at monthly Commission meetings
- listing workplace health and safety as a standing agenda item at monthly Commission staff meetings
- maintaining a Business Unit Risk Register
- reviewing identified and potential hazards with individual work groups within the Commission.

Issues of workplace health and safety were considered by the JACSD Workplace Consultative Committee established in relation to the restructure of the organisation and proposed relocation to Level 2, 11 Moore Street.

During the reporting period, two Commission staff continued to use Dragon, a speech recognition software package.

B8: HUMAN RESOURCES MANAGEMENT

ACT Shared Services and the JACSD's People and Workplace Strategy Branch, assist the Commission with recruitment of Commission staff, and the Commission internally manages the retention, support and training of staff.

All Commission staff are recruited to meet specific agency requirements and objectives, and are provided with development opportunities to ensure that their performance and capabilities remain at a high standard.

In line with the JACSD's Personal Achievement and Development Policy, the Commission is also committed to a workplace culture that actively promotes and supports learning and development.

During the reporting period, Commission staff attended learning and development programs on 50 occasions, including training on: cultural awareness; work health and safety; mediation; disability awareness; discrimination; legal ethics and business continuity planning.

This reporting period involved significant change for staff, with the development and passing of the *Protection of Rights (Services) Legislation Amendment Act 2016* and the restructure of the Commission. A Workplace Consultative Committee was formed with representatives from the Commission, Office of the Public Advocate, Public Trustee and Victim Support ACT and the CPSU, to provide input into the new Commission structure and organisational chart. Staff were also consulted about the layout of new co-located premises at Level 2, 11 Moore Street.

A Change Consultant was appointed by the Directorate to assist staff with this transition and the restructure proceeded on the basis that all permanent staff, (other than Commissioners) would be guaranteed positions at level within the new organisation. Staff whose roles were change-affected as a result of the restructure were offered support to re-negotiate their roles. The Commission held a team building workshop for all staff on 8 June 2016 prior to the co-location of agencies to the new Commission premises.

B9: ECOLOGICALLY SUSTAINABLE DEVELOPMENT

During the reporting period, the Commission undertook a number of activities aimed at minimising the impact of the Commission on the environment.

In particular, the Commission:

- used recycled paper for all internal printing
- recycled, where possible, paper and other internal waste
- encouraged staff to only print paper copies when necessary
- encouraged staff to switch off lights, computers and other electricity using devices when not needed
- complied, as far as it is aware, with all relevant environmental laws and standards

The Commission is unable to report against consumption of energy, transport fuels and water; and the generation of waste and greenhouse emissions as a result of resource use in agency operations.

SECTION C - FINANCIAL MANAGEMENT REPORTING

C1: Financial Management Analysis

See C2: Financial Statements

C2: Financial Statements

The Commission has a MOU with the JACSD that stipulates that JACSD *'has overarching responsibility for the whole of the Directorate's operating budget, which includes the operating budget of the Commission'*.

In line with this agreement, the Commission's financial report is included in the JACSD's Annual Report 2015-2016.

In 2015-2016, the Commission's total operating budget was \$3.608 million (including Public Advocate funding 1 April 2016 to 30 June 2016, \$278,000), with the actual total cost being \$3.855 million.

Please note that these amounts do not include the operating costs of: Guardianship, \$824,000; Victims of Crime Commissioner, \$3.065 million or the Public Advocate 1 July 2015 to 31 March 2016, \$833,000. As previously mentioned, reporting on the work of the Guardianship Unit from 1 July 2015 to 30 June 2016 and the work of the Public Advocate from 1 July 2015 to 31 March 2016 will be completed by the new Public Trustee and Guardian and is not included in this report.

Last reporting period, the Commission's total operating budget was \$3.511 million, with the actual total cost being \$3.610 million.

The Commission's reporting in relation to this measure is in the consolidated financial statements of the JACSD Annual Report.

C3: Capital Works

During the reporting period, the JACSD refurbished Level 2 of 11 Moore Street to accommodate the Commission from 4 July 2016 and details are in the Directorate's Annual Report 2015-2016.

C4: Asset Management

The JACSD's asset management strategies apply to the Commission and are detailed in the Directorate's 2015-2016 Annual Report.

C5: Government Contracting

During the reporting period, the Commission engaged eight contractors or consultants. Total expenditure for these services was \$16,156.

Procurement selection and management processes for all contracts complied with The *ACT Government Procurement Act 2001*, The *ACT Government Procurement Regulation 2007* and subordinate guidelines and circulars.

Additionally, during the reporting period, the Commission provided financial assistance totalling \$1900 to the following three organisations:

- University of Canberra - \$200 contribution to the Law School for the ACT Human Rights Commission Prize for International Law of Human Rights
- Australian National University - \$200 contribution to the ANU College of Law for the ACT Human Rights Commission Prize for International Law of Human Rights
- Community Services Directorate - \$1,500 sponsorship for 'Life's Reflections' Photographic Competition.

C6: Statement of Performance

The Commission reports outputs against accountability indicators in Output 1.5 of the JACSD's portfolio report. The report for the year under review is set out below.

Table 2 – Statement of performance

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 Commission, the Public Advocate and Victim Support ACT. This output also includes services provided by the Privacy Commissioner.

Accountability indicator	Original target	Amended target	Actual result	% Variance
High level of client satisfaction with the Commission complaints processes:				
• Percentage of survey respondents who consider the process fair, accessible and understandable	75%		86%	+15% ¹
• Percentage of complaints concluded within Commission standards and targets	75%		68%	-9%
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) health services and (iv) services for older people:				
• Number of community engagement activities undertaken by the Commission	30		37	+23% ²
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	75%		64%	-15% ³
Public Advocacy				
Individuals, excluding guardianship clients, brought to the attention of the Public Advocate:				
• Total number of individuals provided with direct advocacy	500		691	38% ⁴
• Percentage for clients referred to the Public Advocate for whom a review of the documentation was undertaken	60%		81%	35% ⁵

Footnotes

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1 Client satisfaction rate exceeded expectation primarily as a result of continuous improvement in services provided by the Human Rights Commission.</p> <p>2 The higher than target 2015-2016 outcome is mainly due to an increased demand for community events to be attended by Commissioners due to higher public profile.</p> <p>3 The Public Advocate continues to use the new stakeholder survey methodology using survey monkey, rather than a telephone based survey. The additional anonymity that the survey monkey provides has allowed people to be more judgemental of the services provided which may contribute to the lower than target result. The response rate for the most</p> | <p>4 recent survey was lower than hoped and the Public Advocate will continue to refine the electronic process and encourage stakeholders to improve response rates.</p> <p>5 The higher than target 2015-2016 outcome is primarily due to the recruitment of additional staff and the prioritisation of direct advocacy services.</p> <p>6 The higher than target 2015-2016 outcome is primarily due to the Public Advocate prioritising reviews to: (1) establish an appropriate baseline for oversight in light of the transition to 'Step Up for Kids'; and (2) support an increased presence at ACT Civil and Administrative Tribunal as part of the early implementation of the new <i>Mental Health Act 2015</i>.</p> |
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SECTION M – COMMUNITY ENGAGEMENT AND SUPPORT

M1: Community Engagement and Support

This section describes community engagement activities undertaken by the Commission as a whole. Community engagement activities for individual Commissioners are detailed at B2: Performance Analysis.

The Commission has a statutory obligation to:

- promote the provision of community education, information and advice in relation to human rights
- promote the rights of users of services for children and young people, disability services, health services, and services for older people
- consult with children and young people in ways that promote their participation in decision-making
- listen to and seriously consider the views of children and young people
- promote an understanding and acceptance of, and compliance with, the *Human Rights Commission Act 2005* and the *Discrimination Act 1991*.

Community education and engagement activities

During the reporting period, the Commission undertook a range of community education and engagement activities, including:

- speeches and presentations
- consultation and engagement activities with members of the community including children and young people
- training and outreach

The Commission also hosted whole-of-Commission information and engagement stalls, including at:

- National Multicultural Festival
- ACT Seniors Week
- National Youth Week
- Eid al-Fitr festival
- SpringOut Fair day
- NAIDOC Family and Community Day
- Mental Health and Wellbeing Expo.

Major initiative during the reporting period was the Diversity Goes With Our Territory campaign launched in November 2015. It is a social media project designed to prevent racism and intolerance (see page 17 for details). During the reporting period, the Commission continued to increase awareness about its role and functions by distributing printed information and promotional material at events and activities, on its website, and in response to requests from organisations. The Commission also continued the publication of its primary promotional brochure in: Arabic; Croatian; Vietnamese; Cantonese; Italian; Mandarin and Greek.

Reconciliation Action Plan

During the reporting period, the Commission, with oversight from its internal Reconciliation Action Plan (RAP) Working Committee, and assistance from Aboriginal and Torres Strait Islander community stakeholders, developed a new 2105-2018 RAP, which was approved by Reconciliation Australia as an 'innovate' RAP. The plan will be reviewed in the next reporting period to reflect the restructure.

Disability Action Plan

During the previous reporting period, the Commission developed its inaugural Disability Action Plan (DAP). The Plan was developed in consultation with the former Disability Advisory Council, and is overseen by a DAP Working Group within the Commission. During the reporting period, a number of actions under the DAP were completed. Further information about the DAP is detailed in the Disability & Community Services Commissioner's Report above.

Commission website (www.hrc.act.gov.au)

Information relevant to the Commission's activities including: publications; speeches; media activity; consultations with children and young people; upcoming events and community education and engagement activities, is posted regularly on the Commission's website.

During this reporting period the Commission began the process of redesigning the Commission website to reflect the new structure of the Commission.

Twitter (@ACTHumanRights)

The Commission uses Twitter to increase community awareness of events held or attended by the Commission and to announce or promote resources, reports and media activity.

SECTION N – JUSTICE AND COMMUNITY SAFETY

N1: Bushfire Risk Management

During the reporting period, the Commission did not own or manage Territory land.

N2: Freedom of Information

Section 7 Statement

Section 7 of the *Freedom of Information Act 1989* (the Act) requires the Commission to prepare and publish a statement outlining the Commission's organisation, functions and decision-making powers, the categories of documents available and facilities available to the public for accessing documents.

Organisation functions and decision-making powers

The Commission is an independent statutory agency established by the *Human Rights Commission Act 2005* (the HRC Act).

From 1 April 2016 the structure of the Commission substantially changed as a result of amendments to the HRC Act introduced by the *Protection of Rights (Services) Legislation Amendment Act 2016*. From 1 April the HRC Act provides for eight members of the Commission:

- The President of the Commission
- The Human Rights Commissioner
- The Discrimination Commissioner
- The Health Services Commissioner
- The Disability & Community Services Commissioner
- The Children & Young People Commissioner
- The Public Advocate
- The Victims of Crime Commissioner

From 1 April 2016 until 30 June 2016, these roles were held by four Commissioners:

- The role of President and Human Rights Commissioner was held by Dr Helen Watchirs.
- The Role of Discrimination Commissioner, Health Services Commissioner and Disability & Community Services Commissioner was held by Mr Graeme Innes.
- The Role of Children & Young People Commissioner and Public Advocate was held by Ms Gabrielle McKinnon (on a temporary basis from 1 April to 1 May 2016) and Ms Jodie Griffiths-Cook (from 2 May to 30 June 2016).
- The Role of Victims of Crime Commissioner was held by Mr John Hinchey. The Victims of Crime is also the Domestic Violence Project Coordinator (see *Domestic Violence Agencies Act 1986*).

Objects of the Human Rights Commission Act

Section 6 of the HRC Act (as amended from 1 April 2016) notes that the main object of the HRC Act is to promote the human rights and welfare of people living in the ACT, and that this is to be achieved by establishing a Commission that will:

- promote the provision of community education, information and advice in relation to human rights; identify and examine issues that affect the human rights and welfare of vulnerable groups in the community
- make recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community
- promote understanding and acceptance of and compliance with, the *Discrimination Act 1991* and the HR Act
- acknowledge, protect and promote the rights of victims
- promote the protection of children and young people and people with a disability from abuse and exploitation
- promote improvements in the provision of prescribed services and the rights of users of prescribed services

promote an awareness of the rights and responsibilities of users and providers of services provide an independent, fair and accessible process for the resolution of discrimination complaints and complaints between:

- users and providers of prescribed services
- provide a process to encourage and assist users and providers of prescribed services to make improvements in the provision of services, particularly by encouraging and assisting service users and providers to contribute to the review and improvement of service quality:
- foster community discussion, and the provision of community education and information, about this Act and related Acts; the operation of the Commission; and procedures for making complaints.

'Prescribed' services are defined to mean:

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

Roles and functions of the Commission

The roles and functions of the Commission are established under section 14 of the HRC Act, and include (as amended from 1 April 2016):

- encouraging the resolution of complaints made under the HRC Act and assisting in their resolution, by providing an independent, fair and accessible process for resolving the complaints
- encouraging and assisting users and providers of prescribed services to make improvements in the provision of services, particularly by encouraging and assisting service users and providers to contribute to the review and improvement of service quality
- encouraging and assisting people providing prescribed services and people engaging in conduct that may be complained about under the HRC Act, to develop and improve procedures for dealing with complaints
- identifying, inquiring into and reviewing issues relating to the matters that may be complained about under the HRC Act
- exercising any other function given to the Commission under the HRC Act or another Territory law.

Other territory laws that give the Commission functions include: the *Children and Young People Act 2008*; the *Health Practitioners Regulation National Law (ACT) Act 2010*; the *Health Professionals Act 2004*; the *Health Records (Privacy and Access) Act 1997*; the *Mental Health Act 2015* and the *Human Rights Act 2004*.

Additionally, each member of the Commission has specified functions relating to their particular area set out in the HRC Act.

Public participation in decision-making

Arrangements for public participation in decision-making and policy work of the Commission include:

- invitations for public submissions to inquiries and audits conducted by the Commission
- discussion at public forums hosted by the Commission
- information stalls at community events
- written and electronic community surveys conducted by the Commission.

Additionally, the Children & Young People Commissioner regularly consults with children and young people in a number of ways, including:

- face-to face discussions
- forums, focus groups, and public stalls and activities
- targeted surveys.

The Commission also has a RAP that informs specific community engagement activities with Aboriginal and Torres Strait Islander clients.

Categories of documents

The Commission holds two basic categories of documents:

- Those that are freely available on request and without charge
- All other kinds of documents that may be made available under the HRC Act.

Documents available on request and without charge

Documents within this category include publications produced by the Commission on various aspects of its activities, including policy submissions, inquiry and audit reports. These are available on request from the Commission and may also be available on the Commission's website www.hrc.act.gov.au.

Documents of other kinds that may be available under the FOI Act:

- general files including internal and public documents, minutes of meetings of committees, agendas and background papers
- policy files
- training and education materials
- diaries, rosters, work sheets
- records held on computer or paper in connection with the Commission's functions
- photographs, videos, sound recordings and artwork
- financial and accounting records
- details of contracts and tenders
- complaint files, except health record complaints
- inquiry and audit files
- leases and deeds of agreement.

Facilities for access

Those seeking information are encouraged to seek access by contacting the Commission before resorting to the more formal FOI procedure. In many cases it may be possible to access information more quickly and efficiently through such an approach.

The Commission is located at Level 2, 11 Moore St in Canberra City. Information regarding bus routes and timetables can be obtained from ACTION (telephone 131710). Our contact details are:

Telephone: (02) 6205 2222

Fax: (02) 6207 1034

Email: human.rights@act.gov.au

FOI requests should be directed to:

ACT Human Rights Commission
GPO Box 158
Canberra ACT 2601

Section 8 Statement

A copy of the Commission's Section 8 statement is available on the Commission's website www.hrc.act.gov.au or by contacting the Commission:

Telephone: (02) 6205 2222

Fax: (02) 6207 1034

Email: human.rights@act.gov.au

Section 79 Statement

During the reporting period, the Commission received and responded to three FOI requests as follows:

- The Commission provided access to documents sought in relation to one request and also referred an aspect of that request to another agency with consent. This request was processed within 30 days.
- The Commission granted partial access to documents in relation to another request and processed this request within 30 days.
- A third request presented more complex issues and the Commission was required to seek legal advice in relation to the application of an exemption. Access was refused to documents sought under this request. The processing time for this request was more than 90 days.

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

N3: Human Rights ACT 2004

Section 15 of the HRC Act requires the Commission to act consistently with human rights, and a commitment to human rights is fundamental to all aspects of the Commission's work.

Additionally, under section 40B of the HR Act, all ACT Government agencies, including the Commission, have an obligation to act, and make decisions consistent with, human rights. Throughout the reporting period, the Commission continued to meet this obligation in a number of ways.

In particular, the Commission:

- continued to follow a number of rights based principles when responding to enquiries and complaints, including, in particular: natural justice; impartiality; procedural fairness; confidentiality; principles of evidence and transparency
- took into account relevant human rights in complaints handling
- provided formal training to public authorities on their obligations regarding human rights
- gave speeches and presentations on human rights to a range of groups and community forums
- 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
- responded to requests from Ministers for human rights advice on specific topics
- provided all new staff with copies of relevant internal policies, procedures and publications, including those relevant to the HR Act.

N4: 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 O - PUBLIC SECTOR STANDARDS AND WORKFORCE PROFILE

O1: Culture and Behaviour

During the reporting period, the Commission, and Commission staff, continued to operate in accordance with ACT Respect, Equity and Diversity (RED) Framework. In doing so, the Commission strives to be a workplace that is respectful, courteous, fair, and that values individual differences.

During the reporting period, the Commission had a fully qualified RED Contact Officer, and also provided training to other agencies under the RED Framework.

O2: Public Interest Disclosure

During the reporting period, the Commission did not receive any public interest disclosures.

The JACSD's public interest disclosure policies and procedures apply to the Commission, and are detailed in the Directorate's 2015-2016 Annual Report.

O3: Workforce Profile

During the reporting period, the members of the Commission were:

From 1 July 2015 – 30 March 2016

- Dr Helen Watchirs: Human Rights Commissioner and Discrimination Commissioner
- Ms Mary Durkin: Health Services Commissioner and Disability & Community Services Commissioner
- Mr Alasdair Roy: Children & Young People Commissioner.

From 1 April 2016 – 30 June 2016

- Dr Helen Watchirs, President and Human Rights Commissioner
- Mr Graeme Innes, Discrimination Commissioner, Health Services Commissioner and Disability & Community Services Commissioner
- Ms Jodie Griffiths-Cook Children & Young People Commissioner and Public Advocate from 2 May 2016
- Ms Gabrielle McKinnon, Children & Young People Commissioner and Public Advocate from 1 April to 1 May 2016
- John Hinchey, Victims of Crime Commissioner.

Commissioners are remunerated as full time office holders pursuant to determinations of the ACT Remuneration Tribunal, or pro rata for Graeme Innes' part time appointment.

As at 30 June 2016, the Commission had the following, non-executive, staffing structure.

Table 1 – Commission staffing structure (at 30 June 2016)

Position	Number of FTE
President, Legal, Governance, Policy and Community Engagement Team (10.2 FTE)	
President and Human Rights Commissioner	1 x Senior Executive 2.5
Principal Legal Policy Adviser	0.8 x Senior Officer Grade B
Corporate Manager	1 x Senior Officer Grade B
Senior Legal Policy Adviser	0.6 x Legal 1
Manager, Communications & Community Engagement	0.8 x Senior Officer Grade C
Executive Officer	1 x Senior Officer Grade C
Finance and Administration Manager	1 x Senior Officer Grade C
Admin Support	1 x Administrative Officer Class 4
Admin Support	2 x Administrative Officer Class 3
Receptionist	1 x Administrative Officer Class 2
Discrimination, Health Services, and Disability & Community Services Complaints Team (8.8 FTE)	
Discrimination, Health Services, Disability & Community Services Commissioner	1 x Senior Executive 1.3
Principal Review Officer	1 x Senior Officer Grade B
Senior Review Officer	1 x Senior Officer Grade C
Senior Conciliator and Review Officer	2.8 x Senior Officer Grade C
Senior Disability Adviser	1 x Senior Officer Grade C
Intake and Review Officer	1 x Administrative Officer Class 6
Intake Officer	1 x Administrative Officer Class 5
Public Advocate and Children and Young People Team (7.4 FTE)	
Public Advocate and Children & Young People Commissioner	1 x Senior Executive 1.3
Principal Advocate	1 x Senior Professional Officer Grade B
Senior Legal Policy Adviser	1 x Legal 1
Senior Advocate, Mental Health/Forensic	1 x Senior Officer Grade C
Senior Advocate, Children and Young People	1 x Senior Officer Grade C
Senior Children and Young People Adviser	0.4 x Senior Officer Grade C
Senior Advocate, Complex Disability/MAP	1 x Senior Officer Grade C
Advocate, Mental Health/Forensic	1 x Administrative Officer Class 6
Victim Support Team (16.2)	
Victim of Crime Commissioner	1 x Senior Executive 1.3
Domestic Violent ICT Special Project Officer	1 x Senior Officer Grade A
Director	1 x Senior Officer Grade B
Database developer	0.2 x Senior Officer Grade B
Executive Officer	0.8 x Senior Officer Grade C
Team Leader	1 x Health Professional Officer Grade 4

Position	Number of FTE
Senior Case Manager	3 x Health Professional Officer Grade 3
Senior Case Manager	1 x Health Professional Officer Grade 3, Casual
Case Manager	4.2 x Health Professional Officer Grade 2
Financial Assistance Team Member	2 x Administrative Officer Class 6
Policy Officer	1 x Administrative Officer Class 6

The following data was provided to the Commission by Shared Services Human Resources, and has not been verified by the Commission.

Table 2 – FTE and headcount by agency

Agency	FTE	Headcount
Human Rights Commission	42.6	47

Table 3 – FTE and headcount by gender

Group	Female	Male	Total
FTE by gender	38.2	6.8	45.0
Headcount by gender	42	8	50
Percentage of workforce	84.0%	16.0%	100.0%

Table 4 – Headcount by classification and gender

Classification Group	Female	Male	Total
Administrative Officers	8	2	10
Health Professional Officers	12	0	12
Legal Officers	2	0	2
Senior Officers	18	4	22
Statutory Office Holders	2	2	4
TOTAL	42	8	50

Table 5 – Headcount by employment category and gender

Employment Category	Female	Male	Total
Casual	1	1	2
Permanent full-time	23	4	27
Permanent part-time	7	1	8
Temporary full-time	6	1	7
Temporary part-time	5	1	6
TOTAL	42	8	50

Table 6 – FTE and headcount by diversity group

Diversity Group	Headcount	Percentage of Workforce
Aboriginal and/or Torres Strait Islander	0	0.0%
Culturally or linguistically diverse	8	16.0%
People with a disability	2	4.0%

Table 7 – Headcount by age group and gender

Age Group	Female	Male	Total
< 25 years	1	0	1
25 - 34 years	9	1	10
35 - 44 years	10	2	12
45 - 54 years	11	1	12
55+	11	4	15

Table 8 – Recruitment and separation rates

	Recruitment Rate	Separation Rate
Human Rights Commission	12.8%	15.4

Table 9 – Recruitment and separation rates by classification group

	Recruitment Rate	Separation Rate
Administrative Officers	26.2%	13.1%
Health Professional Officers	29.6%	9.9%
Legal Officers	0.0%	0.0%
Senior Officers	0.0%	20.4%
TOTAL	12.8%	15.4%

Table 10 – Recruitment FTE and headcount by diversity group

	Headcount	Percentage of Workforce
Aboriginal and/or Torres Strait Islander	0	0.0%
Culturally and Linguistically Diverse	8	16.0%
People with a disability	1	2.0%

The Commission placed an Aboriginal Graduate on rotation for 16 weeks during the reporting period.

SECTION P - TERRITORY RECORDS

P1: Territory Records

The JACSD's Records Management Program has been adopted and is in use in the Commission. A senior officer within the Commission retains responsibility for records management as required by Territory Records Office standards.

The public can inspect the Records Management Program by viewing it on the website.

Records management procedures have been created and are available to all staff in the Commission via the Commission's corporate server and/or business system.

The Commission's policy and procedures include specific arrangements for preserving records containing information that may allow people to establish links with their Aboriginal or Torres Strait Islander heritage.

The Commission's Corporate Support Team maintain overall responsibility for the Commission's records management program, and all staff receive training on records management upon induction, and throughout the year as required.

Table 13 – Record disposal schedules used by the Commission

Records Disposal Schedule	Effective	Year and Number
Territory Records (Records Disposal Schedule - Equipment and Stores Records) Approval 2012 (No 1)	13 April 2012	NI2012-186
Territory Records (Records Disposal Schedule - Fleet Management Records) Approval 2012 (No 1)	13 April 2012	NI2012-187
Territory Records (Records Disposal Schedule - Compensation Records) Approval 2012 (No1)	11 April 2012	NI2012-183
Territory Records (Records Disposal Schedule - Financial Management Records) Approval 2011 (No 1)	2 September 2011	NI2011-482
Territory Records (Records Disposal Schedule - For preserving records containing information that may allow people to establish links with their Aboriginal and Torres Strait Islander heritage) Approval 2011 (No 1)	25 March 2011	NI2011-162
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Community Relation Records) Approval 2011 (No 1)	8 March 2011	NI2011-84
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Government Relations Records) Approval 2011 (No 1)	8 March 2011	NI2011-88
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Industrial Relations Records) Approval 2011 (No 1)	8 March 2011	NI2011-90
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Information Management Records) Approval 2011 (No 1)	8 March 2011	NI2011-92
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Personnel Records) Approval 2011 (No 1)	8 March 2011	NI2011-97
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Property Management Records) Approval 2009 (No 2)	11 December 2009	NI2009-625
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Establishment Records) Approval 2009 (No 1)	11 September 2009	NI2009-437
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Legal Services Records) Approval 2009 (No 1)	11 September 2009	NI2009-443
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Occupational Health and Safety (OHandS) Records) Approval 2009 (No 1)	11 September 2009	NI2009-444
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Publication Records) Approval 2009 (No 1)	11 September 2009	NI2009-450
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Strategic Management Records) Approval 2009 (No 1)	11 September 2009	NI2009-453
Territory Records (Records Disposal Schedule - Territory Administrative Records Disposal Schedules - Technology and Telecommunications Records) Approval 2009 (No 1)	11 September 2009	NI2009-454

COMPLIANCE STATEMENT

The Commission must comply with the 2015 Annual Report Directions (the Directions). The Directions are found at the ACT Legislation Register:

<http://www.legislation.act.gov.au/ni/2015-207/current/pdf/2015-207.pdf>

This Compliance Statement indicates the subsections, under the five Parts of the Directions, that are applicable to the Commission and the location of information that satisfies these requirements:

Part 1: Directions Overview

The requirements under Part 1 of the 2015-2016 Directions relate to the purpose, timing and distribution, and records keeping of annual reports. The Commission complies with all subsections of Part 1 under the Directions.

In compliance with section 13, Part 1, of the Directions, contact details for the Commission are provided within this Report (inside front cover) to provide readers with the opportunity to provide feedback.

Part 2: Agency Annual Report Requirements

The requirements within Part 2 of the Directions are mandatory for all agencies and the Commission complies with all subsections. The information that satisfies the requirements of Part 2 is found in this Report as follows:

- A: Transmittal Certificate (immediately preceding table of contents)
- B: Organisational Overview and Performance, inclusive of all subsections (see page 5)
- C: Financial Management Reporting, inclusive of all subsections (see page 70).

Part 3: Reporting by Exception

The Commission has nil information to report by exception under Part 3 of the Directions for the 2015-2016 reporting period.

Part 4: Agency Specific Annual Report Requirements

The Commission has nil information to report under Part 4 of the Directions.

Part 5: Whole of Government Annual Reporting

All subsections of Part 5 of the Directions apply to the Commission. Consistent with the Directions, the information satisfying these requirements is reported in the one place for all ACT Public Service Directorates, as follows:

- Q: Community Engagement and Support, see the 2015-2016 Annual Report of the Chief Minister, Treasury and Economic Development Directorate 2015-2016
- R: Justice and Community Safety (including all subsections R1-R4), see the 2015-2016 Annual Report of JACSD
- T: Territory Records, see the 2015-2016 Annual Report of the CMTEDD.

ACT Public Service Directorate annual reports are found at the following web address:

http://www.cmd.act.gov.au/open_government/report/annual_reports

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