



ACT HUMAN RIGHTS  
COMMISSION

# Annual Report 2020–21



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- This document is available online, in Word and PDF at [www.hrc.act.gov.au](http://www.hrc.act.gov.au)
- Contact us for accessible formats, such as large print or audio.  
Ph 02 6205 2222 or email [human.rights@act.gov.au](mailto:human.rights@act.gov.au)
- For translating and interpreting, please call the Telephone Interpreter Service on 131 450.
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ACT HUMAN RIGHTS  
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# Annual Report 2020–21



# Contents

Contact officer .....	5
A timeline of human rights in the ACT .....	6
Transmittal certificate .....	8
Compliance statement .....	9
Part 1 Directions overview .....	9
Part 2 Reporting entity annual report requirements .....	9
Part 3 Reporting by exception .....	9
Part 5 Whole of government annual reporting .....	9
From the President and Human Rights Commissioner .....	10
From the Discrimination, Health Services, Disability and Community Services Commissioner .....	12
From the Victims of Crime Commissioner .....	14
From the Public Advocate and Children and Young People Commissioner .....	16
Organisational overview and performance .....	18
Operations protocol 2019–22 .....	20
Client services charter 2020–22 .....	20
Social inclusion plan 2019–22 .....	20
Ngattai yeddung: Listen good—cultural safety charter .....	20
ACT Human Rights Commission .....	20
Performance .....	21
President and Human Rights Commissioner .....	22
<i>Working with the Aboriginal and Torres Strait Islander community</i> .....	22
<i>Tours on country</i> .....	22
<i>Reviewing Cabinet submissions and other human rights consultations</i> .....	22
<i>Reforming child protection decision-making</i> .....	24
<i>Human rights court interventions</i> .....	25
<i>Independent advice to members of the Legislative Assembly</i> .....	26
Discrimination, Health Services, Disability and Community Services Commissioner .....	27
<i>Highlights</i> .....	27
<i>New jurisdictions</i> .....	28
<i>Satisfaction with complaint handling</i> .....	30
<i>Health service complaints</i> .....	30
<i>ACT Veterinary Practitioners Board</i> .....	35

<i>National Code of Conduct for Unregistered Health Care Workers</i> .....	36
<i>Discrimination complaints</i> .....	36
<i>ACT Civil and Administrative Tribunal referrals</i> .....	40
<i>Disability and community service complaints</i> .....	41
Victims of Crime Commissioner .....	45
<i>Highlights</i> .....	46
<i>Victim Support ACT</i> .....	46
<i>Intermediary Program</i> .....	63
Public Advocate and Children and Young People Commissioner .....	67
<i>Leading positive systemic change</i> .....	67
<i>Public Advocate</i> .....	69
<i>Public Advocate—children and young people</i> .....	70
<i>Public Advocate—mental health and forensic mental health</i> .....	80
<i>Public Advocate—complex needs/disability, including protection matters</i> .....	86
<i>Children and Young People Commissioner</i> .....	91
<b>Scrutiny</b> .....	<b>93</b>
Aboriginal and Torres Strait Islander procurement policy .....	95
Aboriginal and Torres Strait Islander reporting .....	95
Internal audit .....	95
Fraud prevention .....	95
Human resources management .....	96
<i>Learning and development</i> .....	97
Freedom of information .....	98
Human rights .....	99
Risk management .....	99
Work health and safety .....	99
Ecologically sustainable development .....	99
<b>Financial management reporting</b> .....	<b>100</b>
Financial statements .....	100
Capital works .....	100
Asset management .....	100
Government contracting .....	100
Creative services panel .....	100
Statement of performance .....	100
Statement of performance .....	100
<i>Output Class 1 justice services</i> .....	101

<b>Engaging and educating the community</b>	<b>103</b>
President and Human Rights Commissioner	103
<i>International Human Rights Day forum</i>	103
<i>Human rights training at Bimberi, AMC</i>	103
<i>Law Week seminar on human rights protections</i>	103
<i>Reconciliation: more than a word</i>	104
<i>ANU lecture on cultural rights</i>	104
<i>Advocacy on raising age of criminal responsibility</i>	104
<i>Media coverage and outreach</i>	104
Discrimination, Health Services, Disability and Community Services Commissioner	105
<i>Anti-racism information</i>	105
<i>Training &amp; information sessions</i>	105
<i>Information for people with disabilities</i>	105
Victims of Crime Commissioner	106
<i>Animation</i>	106
<i>Community presentations</i>	106
Public Advocate	106
<i>2020 Foster and Kinship Carer Appreciation event</i>	106
<i>Children's Education and Care Assurance—Difficult decision-making in complex cases</i>	106
Children and Young People Commissioner	107
<i>Keynote address—Child-Centred Approaches to Ending Family Violence</i>	107
<i>Children's Week Awards 2020</i>	107
<i>Canberra Grammar School—Bringing life to human rights</i>	107
<i>Publications</i>	107
<i>Events and engagements</i>	108
<b>Appendix A: Commissioner's presentations</b>	<b>109</b>
President and Human Rights Commissioner	109
Discrimination, Health Services, Disability and Community Services Commissioner	109
Victims of Crime Commissioner	110
Public Advocate and Children and Young People Commissioner	110
<b>Acronyms and abbreviations</b>	<b>111</b>



# Contact officer

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# A timeline of human rights in the ACT

- 
- 1986** Self-government begins in the ACT.
- 
- 1991** The ACT passes the *Discrimination Act 1991* (Discrimination Act), making it unlawful to discriminate against a person based on their race, religion, sex, sexuality or marital status. The ACT also establishes the ACT Discrimination Commissioner. In the first decade of self-government, the Discrimination Act becomes the primary vehicle for the protection of human rights in the ACT. The Office of the Youth Advocate ACT merges into the Community Advocate.
- 
- 1994** The ACT Government appoints the first Victims of Crime Coordinator. The ACT becomes the first Australian jurisdiction to recognise the rights of people in de facto and caring relationships.
- 
- 2002** Gallop report recommends establishing independent disability commissioner.
- 
- 2003** Foundation for Effective Markets and Governance report on review of oversight agencies recommends new disability commissioner sit within merged Human Rights Commission.
- 
- 2004** The ACT becomes the first jurisdiction in Australia to enact a comprehensive Human Rights Act (HR Act). It also establishes the Human Rights Commissioner in the existing ACT Human Rights Office. The Vardon Report recommends an independent Commissioner for Children and Young People.
- 
- 2005** The Office of the Community Advocate becomes the Public Advocate.
- 
- 2006** The ACT Human Rights Office becomes the Human Rights Commission. The Commission includes the Human Rights and Discrimination Commissioner and the Health Services Commissioner.
- 
- 2007** New Children and Young People Commissioner and Disability (and Community Services) Commissioner appointed.
- 
- 2009** Public authorities in the ACT are required to act in a way that is compatible with human rights, and to properly consider relevant rights in decision-making, under amendments to the HR Act.
-



- 
- 2011** The *Victims of Crime Act 1994* (VoC Act) is amended to establish a Victims of Crime Commissioner.
- 
- 2013** The right to education becomes the first economic, social and cultural right to be recognised in the ACT, under amendments to the HR Act.
- 
- 2014** The *Births, Deaths and Marriages Registration Act 1997* is amended to improve legal recognition of sex and gender diverse people; to introduce a third legal sex category; and to remove the requirement for persons to undergo surgery before changing their legal sex.
- 
- 2016** The distinct cultural rights held by Aboriginal and Torres Strait Islander people are recognised under amendments to the HR Act. Separate amendments are passed strengthening the right to education. The Discrimination Act is amended to safeguard against discrimination based on a person's subjection to domestic or family violence; accommodation status; employment status; immigration status; and physical features. The amendments introduce intersex status as a standalone attribute. People can complain about vilification on the grounds of disability, religion or intersex status. The Human Rights Commission is restructured to include the Public Advocate, the Victims of Crime Commissioner and Victim Support ACT.
- 
- 2020** ACT's first intermediary program begins operating, supporting vulnerable victims and witnesses. Under amendments to the *Human Rights Commission Act 2005* (HRC Act), members of the public can complain to the Commission about vulnerable people being subjected to or at risk of abuse, neglect or exploitation. Vulnerable people include people with a disability and certain older people. The right to work and workers' rights are also recognised under amendments to the HR Act. Together, these are the second economic, social and cultural right to be enshrined in the HR Act.
- The ACT Government agrees to raise the age of criminal responsibility.
- 
- 2021** A charter of rights for victims of crime comes into effect detailing rights in the areas of respect, privacy and safety; access to support services, legal and financial assistance; participation in proceedings; information about administration of justice processes; and information about investigations, proceedings and decisions.
- Under amendments to the HRC Act, members of the public can complain to the Commission about the conduct of a justice agency in not complying with victims' rights.
- Under the *Sexuality and Gender Identity Conversion Practices Act 2020*, it becomes an offence to perform a sexuality or gender conversion practice on a protected person. Members of the public can make complaints to the Commission about such practices.
- Under amendments to the HRC Act, members of the public can complain to the Commission about occupancy disputes, such as those relating to residential parks, boarding houses and other forms of accommodation subject to occupancy agreements.
-

# Transmittal certificate



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

Tara Cheyne MLA  
Minister for Human Rights  
ACT Legislative Assembly  
London Circuit  
Canberra ACT 2601

Dear Minister,

## 2020–21 ACT Human Rights Commission Annual Report

This report has been prepared in accordance with section 7(2) 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.

I certify that information in the attached annual report, and information provided for whole of government reporting, is an honest and accurate account and that all material information on the operations of the Human Rights Commission has been included for the period 1 July 2020 to 30 June 2021.

Section 13 of the *Annual Reports (Government Agencies) Act 2004* requires that you present the Report to the Legislative Assembly within 15 weeks after the end of the reporting year. However, under section 14, the Chief Minister has granted an extension of the time when the report must be presented by you to the Legislative Assembly. The Chief Minister has granted the extension to the Legislative Assembly sitting day on 2 December 2021.

Yours sincerely

A handwritten signature in black ink that reads "Helen Watchirs".

Dr Helen Watchirs OAM  
President, ACT Human Rights Commission

25 November 2021

# Compliance statement

The Commission must comply with the Annual Report Directions made under section 8 of the Annual Reports Act. The Directions are found at the ACT Legislation Register: [www.legislation.act.gov.au](http://www.legislation.act.gov.au). This compliance statement indicates the subsections, under Parts 1 to 5 of the Directions, that are applicable to the Commission and the location of this information.

## Part 1 Directions overview

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

To meet section 15: Feedback, Part 1 of the Directions, contact details for the Commission are provided in this annual report under contact officer (page 5), to give readers the opportunity to provide feedback.

## Part 2 Reporting entity annual report requirements

The requirements in Part 2 of the Directions are mandatory for all reporting entities. The Commission complies with all subsections. The information that satisfies the requirements of Part 2 is found in this annual report as follows:

- transmittal certificate, page 8
- organisational overview and performance (including all subsections), page 18
- financial management reporting, page 100.

## Part 3 Reporting by exception

The Commission has no information to report by exception under Part 3 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:

- bushfire risk management, see Justice and Community Safety Directorate (JACSD) annual report
- legal services directions, see JACSD annual report
- public sector standards and workforce profile, see the annual State of the Service Report
- Territory records, see the annual report of Chief Minister, Treasury and Economic, Development Directorate (CMTEDD).

ACT Public Service Directorate annual reports are available at: [www.cmd.act.gov.au/open\\_government/report/annual\\_reports](http://www.cmd.act.gov.au/open_government/report/annual_reports).



# From the President and Human Rights Commissioner



Dr Helen Watchirs OAM.

I would like to express my sincere appreciation to all Commissioners and staff for their tireless effort and ongoing dedication over the year to promoting the human rights and welfare of all people living in the ACT. It has been a challenging year with COVID continuing to impact our services, which have nonetheless increased in volume and complexity.

Following the October 2020 election, the Commission welcomed the Minister for Human Rights, Tara Cheyne, highlighting the importance of her new portfolio and the ACT's commitment to human rights. The Commission has worked constructively with both Minister Cheyne and Attorney-General Shane Rattenbury throughout the reporting period.

Highlights of our year include:

- handling 1,819 enquiries and 922 complaints (200 of which related to discrimination), a significant increase from last year
- providing 16 formal comments on draft Cabinet submissions and 47 formal written legal advices or submissions
- running 75 community engagement events
- assisting over 3,000 victims of crime, a large increase from the 2,100 clients assisted last year
- processing 498 new applications for financial assistance from victims of crime
- providing public advocacy services, including by reviewing compliance documentation for 1622 people and providing direct advocacy for 938 people.

Throughout the year, we continued to monitor government COVID responses, consistently arguing for adequate legislative safeguards to ensure that the right balance is struck between the goals of public health and respect for individual human rights. Earlier in the year, I argued that the question of voluntary versus mandatory vaccination raised complex ethical and legal issues and that giving people different rights or imposing restrictions depending on their vaccination status merits careful consideration of the relevant human rights issues. I was also pleased to see that recommendations of the ACT Legislative Assembly's Select Committee on the COVID-19 pandemic response echoed positions we took in our written submission and appearance via Zoom, including the need for human rights assessments to accompany all public health directions issued by the Chief Health Officer. We have dedicated a page of our website to issues relating to COVID and human rights.

In the reporting period, the Commission continued to focus on several priority areas:

- Raising the minimum age of criminal responsibility in the ACT from 10 to 14 years of age. We welcomed progress on this front, including a post-election commitment by the ACT Government to raise the age, and a discussion paper issued by the government in June 2021.
- Highlighting the need for external review of care and protection decisions. It is unfortunate that work in this area, including developing a suitable model for the ACT, had not progressed significantly at the close of the reporting period.
- Promoting the inclusion of economic, social and cultural rights in the ACT's Human Rights Act (HR Act), including the rights to health and housing.
- Advocating for the HR Act to be reformed, so that it can provide people with a free and accessible complaints mechanism on human rights matters, rather than requiring people to litigate in the Supreme Court, which is time-consuming and costly for most and particularly for our vulnerable clients. I joined colleagues from across the ACT legal, government and community sector at a Law Week panel on this issue in May 2021.
- Supporting the call by the Aboriginal and Torres Strait Islander community for a formal inquiry into their over-representation in the justice system. Victims of Crime Commissioner, Heidi Yates and I attended a vital community roundtable in March 2021, convened by six relevant ministers. The roundtable agreed that a follow-up meeting of senior Aboriginal and Torres Strait Islander leaders should be convened to formalise the community's preferred option for addressing the over-representation. The meeting took place on 15 April 2021 and called for a Royal Commission as well as implementation of recommendations of all previous reports into the issue.

More Commission resources have been devoted to several noteworthy interventions in the ACT Supreme Court. One matter concerned the use of the new intermediary scheme for a young person who was a victim in an alleged sexual assault case. Though the court's reasons are still to be published, the court welcomed our submissions in assisting it to decide that an intermediary be granted for the young complainant. The other case concerned conditions of detention at the Management Unit of the Alexander Maconochie Centre (AMC), namely the right to humane treatment while deprived of liberty. This matter culminated in the court declaring that only allowing detainees in the AMC's Management Unit access to a small and enclosed rear courtyard was inconsistent with their entitlement to one hour of open air and exercise each day.

In June 2021, an independent review of the Commission, mandated under s105A of the *Human Rights Commission Act 2005* (HRC Act) was tabled by Minister Cheyne in the Legislative Assembly. The review examined the effectiveness of 2016 amendments to the Commission, including merging with the Public Advocate and Victims of Crime Commissioner's offices. We welcome the report's findings that the Commission is operating with effective governance, leadership and trust of stakeholders, and are currently implementing its recommendations to enhance our performance. Several recommendations propose that the Commission build on our existing community engagement to foster greater community awareness of human rights and our services, which we plan to do by establishing a community reference group in 2022.

Other achievements during the period have included developing our strategic plan for 2021–2024, as well as an updated governance and corporate support protocol as required by the HRC Act.

I look forward to the implementation of the Optional Protocol to the Convention Against Torture (OPCAT) in the ACT by January 2022. OPCAT will cover oversight of all places of detention in the ACT, including the AMC, Bimberi and Dhulwa. The Commission looks forward to supporting this critical new monitoring role in whichever form it takes.

I am pleased that the Commission will have a new long-term home in early 2022, when we move into purpose-built accommodation in Allara House. The Commission has grown significantly in my time as President, and our new office space will allow us to better meet the needs of the Canberra community and continue to provide a determined voice for the wellbeing and human rights of all Canberrans.

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

In my role as the Discrimination, Health Services, Disability and Community Services Commissioner, my team and I handle all the Commission's complaint jurisdictions, providing a single point of contact for Canberrans to have their concerns dealt with across a wide range of issues. This provides the ACT community with a comprehensive, free, accessible means of resolving their concerns. It also means the Commission can identify systemic issues and try and address those both through the individual complaint mechanism and by working collaboratively with our colleagues within the Commission, in government and the community.

People often use the complaint process when their own efforts to resolve a concern or deal with an issue informally have been unsuccessful. Where possible we facilitate early resolution of complaints by contacting people or organisations to deal with matters informally and quickly. Much of the work we do is to assist Canberrans to resolve real problems affecting their daily lives including access to health services, issues with employment or housing, concerns about services ACT children and young people are accessing, and the safety and wellbeing of older people and people with a disability in our community.



[Karen Toohey.](#)

The number of complaints we receive has increased over the last five years from 507 in 2016–17 to 922 in 2020–21. While this reflects an expansion of our complaint jurisdictions it also reflects the work we have undertaken to provide an accessible, timely and fair process for the community. Each complaint is a concern or problem a Canberra community member has encountered—difficulties enrolling a child with a disability in school, barriers accessing suitable accommodation and housing, people dismissed from a job because of age or disability, people seeking an explanation or action to be taken about the way health services like surgery or mental health treatment have been provided, front line workers collaborating with us to address issues of abuse or neglect of older people in our community.



Some notable achievements this year included:

- received 922 complaints, up from 507 in 2016–17
- receiving over 200 discrimination complaints, up from 78 complaints in 2016–17
- we responded to over 1,800 enquires from the ACT community
- Victims of Crime Charter of Rights complaint jurisdiction commenced on 1 January 2021
- complaints about occupancy disputes can be made from February 2021
- complaints about sexuality and gender identity conversion practices can be made to the Commission from 4 March 2021
- the number of Aboriginal and/or Torres Strait Islander people accessing our process rose from nine in 2016–17 to 55 in 2020–21 maintaining a high level of use of the complaints process by Aboriginal community members
- undertaking a range of community engagement activities at libraries, community events, online and in collaboration with key stakeholders to raise awareness of our legislation and the complaint handling process.

The impact of COVID on the ACT community continues to be a theme in complaints brought to the Commission during 2020–21 and will continue to be a theme as we try to ensure that everyone in our community has equal access to services, employment, and education irrespective of their vaccine status going forward.

I look forward to continuing this work in 2021–22 to ensure Canberra is a safe, inclusive and diverse community.

# From the Victims of Crime Commissioner

It has been an incredibly productive and busy year in the provision of victim support, assistance and advocacy at the Commission. The groundbreaking ACT Charter of Rights for Victims of Crime commenced on 1 January, the culmination of decades of work and advocacy. Already in active use, the charter is the most comprehensive statement of legislative victim rights in Australia, securing practical improvements to the lives of victims by protecting their rights to recognition, information, privacy and respect. For the first time, victims now also have the capacity to raise a formal complaint about breach of their rights to the Commission and access a facilitated, restorative conciliation process. My office received 42 charter concerns in the first six months of operation and worked intensively with fellow justice agencies to aid implementation of the charter framework.

A significant proportion of concerns raised under the charter and previously, under the governing principles for justice agencies in the *Victims of Crimes Act*, relate to the overwhelmingly poor experiences of sexual assault victims in the ACT justice system. Following extensive advocacy for change addressing these concerns, I was pleased in April 2021 to actively support the launch of a whole of ACT Government framework to improve sexual assault prevention and response. Importantly, this project has tripartisan support and was established in close collaboration with seven ministers, collectively responsible for 30 portfolios. Led by the voices and experiences of victim survivors, this work provides the opportunity for long-lasting change in the Canberra community to promote gender equality and prevent



Heidi Yates.

sexual violence against children and adults. Crucially, this work will be overseen by an expert Aboriginal and Torres Strait Islander consultative committee.

The ACT Intermediary Program continued its work assisting child and adult survivors of sexual assault, family violence, homicide and other violent crimes to provide their best evidence when engaging with police, lawyers and in the Supreme and Magistrates' courts. The program received 242 police referrals, 31 court referrals and 11 lawyer referrals. Intermediaries assisted with 100 per cent of requests received, sometimes with less than an hour's notice to attend police stations and other locations ACT-wide, including after hours. Seventy per cent of the requests for intermediaries were for witnesses 15 years of age or younger.

In frontline service provision, Victim Support ACT (VSACT) has experienced unprecedented demand in the reporting period. The Victim Services Scheme (VSS) engaged with 3,083 clients, a 27 per cent increase on last year (2,429 clients) and a 64 per cent increase on two years ago (1,884 in 2018–19). The 1,869 clients accessing intensive case coordination under VSS also represents a 78 per cent increase on 2018–19 figures (1,051) and a 145 per cent increase over the past 4 years (764 in 2016–17). The Victims of Crime Financial Assistance Scheme (FAS) received 498 new applications, a 361 per cent increase compared to 2016–17, the scheme's first year of operation.

These increases are driven by a spike in clients reporting safety concerns associated with COVID movement restrictions, including a growing proportion of VSACT clients seeking support in relation to domestic, family and sexual violence. This year, 65 per cent of offences reported by clients accessing therapeutic support and 69 per cent of FAS applications related to domestic, family or sexual violence. Our Aboriginal and Torres Strait Islander and multicultural outreach programs also continue to do crucial work building trust and connection with the Canberra community, ensuring people feel safe accessing our service in flexible ways.

Key examples of VSACT service innovation in the period include the welcome establishment of the family violence safety action pilot. The pilot, funded by the Commonwealth Government's national partnership on COVID domestic and family violence (DFV) responses, was rapidly established in the first quarter of the reporting period to address the increased volume of high-risk DFV matters presenting to support agencies in the COVID environment. The pilot's work builds on the existing Family Violence Prevention Program case-tracking process and enables government agencies and NGO service providers to collaboratively identify, assess and respond to high-risk DFV matters, with a focus on perpetrator accountability. To date, the team has worked with 129 adult victim survivors (with 180 children).

Similarly, the launch of the VSACT disability outreach project in the third quarter, with the support of the ACT Government's Disability Justice Strategy, provides a welcome short-term opportunity to bolster VSACT's ability to deliver tailored services to persons with a disability. The project will also aid stronger working relationships with the disability sector and the chance to strengthen our client referral pathways.

Through much of the reporting period, VSACT worked intensively to respond to the independent team commissioned by JACS in July to conduct a review into the operation of the VSS and the FAS. The report, tabled in the Assembly in June, presents the results of a multi-staged review and consultation process, including findings from written submissions, interviews, focus groups, surveys and data analysis. While we await the Government's response to the report, I am confident it provides valuable insight into how VSACT can evolve to improve the efficiency and effectiveness of the support, assistance and advocacy we provide to those affected by crime.

At the end of another big year, during which COVID presented significant service delivery challenges, I acknowledge my team and Commission colleagues for their dedication, tenacity and good humour. I thank them for the many different ways that we have worked this year to maximise our clients' ability to be heard and to make informed, empowering choices that uphold their rights to dignity, privacy and respect in the aftermath of crime.

# From the Public Advocate and Children and Young People Commissioner

In my two roles of Public Advocate and of Children and Young People Commissioner, I see firsthand the challenges that many Canberrans face when dealing with life circumstances that increase vulnerability.

As Public Advocate, my role centres on advocating for people whose rights are not being appropriately upheld and/or whose needs are not being adequately responded to by those services and systems that should be providing them with support. In doing so, I also provide oversight of these systems, which by virtue of their legislative basis, operate on the threshold of proportionality in their limitation of rights. At its essence, I seek to ensure that these systems do what they are supposed to do in the way they are supposed to do it.

As Children and Young People Commissioner, I seek to ensure that the rights of children and young people are considered and upheld in legislation, policy and practice while actively pursuing opportunities for children and young people to have their views considered in decision-making about issues that impact their lives. Being able to engage directly with children and young people and to hear directly from them about the things that are most important to them provides unique insights into what it is like to be a child or young person right here, right now.



Jodie Griffiths-Cook.

This past year was both a challenging and rewarding one in protecting and promoting the rights of people brought to the attention of my office. It was one that required perseverance and agility in responding to the stress and uncertainty that followed the initial COVID outbreak of early 2020 and the 'new normal' that our ACT community found itself adjusting to.

Whether through our support of children and young people, people with disability (including those with mental health concerns), older persons, or those with a comorbidity of complex needs, the ongoing challenges we are facing as a community have been evident in the circumstances of those people brought to the attention of my office over this past year.

The 2020–21 reporting period saw sustained growth in demand for public advocacy. In this past year:

- 2,537 people were brought to the attention of my office.
- 11,750 compliance documents were received and processed.
- We provided direct advocacy for 938 children, young people and adults, almost double the number provided with direct advocacy in 2019–20.
- As part of our oversight responsibilities, we reviewed documentation associated with 1,622 people, over 300 more people than last year.
- Over 43 per cent of persons with mental health/forensic mental health needs who were brought to the attention of my office were new consumers.

Our work operates in a dynamic reform environment. Alongside our individual advocacy and systems oversight activities, this past year has also seen us continue to advocate for the needs of children and young people impacted by domestic and family violence, following our 2019–20 *Now you have heard us, what will you do?* consultation. We have also continued to advocate for systemic change in respect of raising the minimum age of criminal responsibility and the need for external review of child protection decision-making. While these reforms are still in progress, it is with pride and a sense of accomplishment that I stand alongside the many others who also pursued these much-needed system reforms and who, like me, remain committed to working alongside the ACT Government to see these reforms come to fruition.

The challenges of responding to this increased demand and providing services within a partly remote working environment required us to think and operate in dynamic ways. To this end, I would particularly like to acknowledge and commend my team for their agility in upholding our commitment to delivering high quality services that improve outcomes for Canberrans who experienced additional vulnerability as a result of the challenging circumstances of this past year.

The dynamic nature of reform offers a unique opportunity to influence the evolution of systems that serve to protect and respond to the needs, rights and interests of Canberrans. To this end, we will continue to advocate for the rights and interests of children, young people and adults experiencing vulnerability to ensure they are recognised and appropriately considered in system design, development and implementation.

I feel honoured to have the opportunity to continue delivering on my commitment to the important work of my office and I am proud of our accomplishments in 2020–21. I look forward to continuing to promote and pursue effective and sustainable outcomes that improve the lives of ACT children, young people and adults in the years ahead.



# Organisational overview and performance

The Commission is an independent agency established in 2006 under the HRC Act. The Public Advocate and the Victims of Crime Commissioner joined the Commission in April 2016.

The ACT is the first Australian jurisdiction to have legislated a human rights Act.

Four people carry out the Commission's major functions:

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

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

- promote understanding of human rights in the ACT
- identify and examine issues that affect human rights and the welfare of vulnerable groups in the ACT
- independently handle complaints about discrimination, and complaints between users and providers of prescribed services
- encourage service improvement and increase awareness of the rights and responsibilities of service users and providers
- provide advice to government and others about their human rights obligations
- provide advocacy for children, young people and adults experiencing vulnerability
- deliver services to victims of crime and advocate for them.

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



# ACT Human Rights Commission Strategic Plan 2021-2024

## Our Vision

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

## What we do

## Our Purpose

We **listen** to, engage, educate and inform you and your community.

We **deliver** accessible services to empower and support you.

We **advocate** for your rights to justice, dignity and wellbeing.

We **hold** governments, systems and people to account to uphold your human rights.

We **drive** rights-based systemic change.



## How we do what we do

## Our Values

### Independent

We are courageous, providing an **independent** voice that is frank and fearless in challenging inequality and injustice.

### Respectful

We **respect** and support people of all identities and experiences.

### Culturally safe

We **respect cultural rights** and spiritual values accepted by Aboriginal and Torres Strait Islander peoples, and we provide culturally safe services.

### Accessible

We provide services that are flexible and **responsive** to your needs.

### Collaborative

We **empower** and actively engage others within and beyond the Commission.

### Integrity

We are **professional**. We live our values. We are consistent and strive for high quality.

### Innovative

We continuously innovate. We gather evidence, we evaluate, and we are open to change and **improve**.

## Where we focus

## Our Priorities

### 1.

**Listen actively and connect to ensure people know their rights, and that the HRC understands and prioritises the most important issues.**

### 2.

**Ensure all our work is client-centred so we deliver a safe, respectful and timely service to everyone we deal with.**

### 3.

**Drive systemic change in laws, service delivery, and standards to improve human rights outcomes for everyone.**

### 4.

**Support all staff to deepen and strengthen their application of human rights in their everyday work.**

## Operations protocol 2019–22

The Commission's first operations protocol continues to guide Commissioners in fulfilling their statutory roles and providing quality services to the community. It is available on the Commission's website.

## Client services charter 2020–22

The client services charter is based on the Commission's commitment to human rights, and belief that all people deserve to be treated with respect and dignity. It explains what the Commission does, what clients can expect from it, how it provides services and how to offer feedback to help improve its services or make complaints. The charter, and two easy English versions of the charter, are available on the Commission's website.

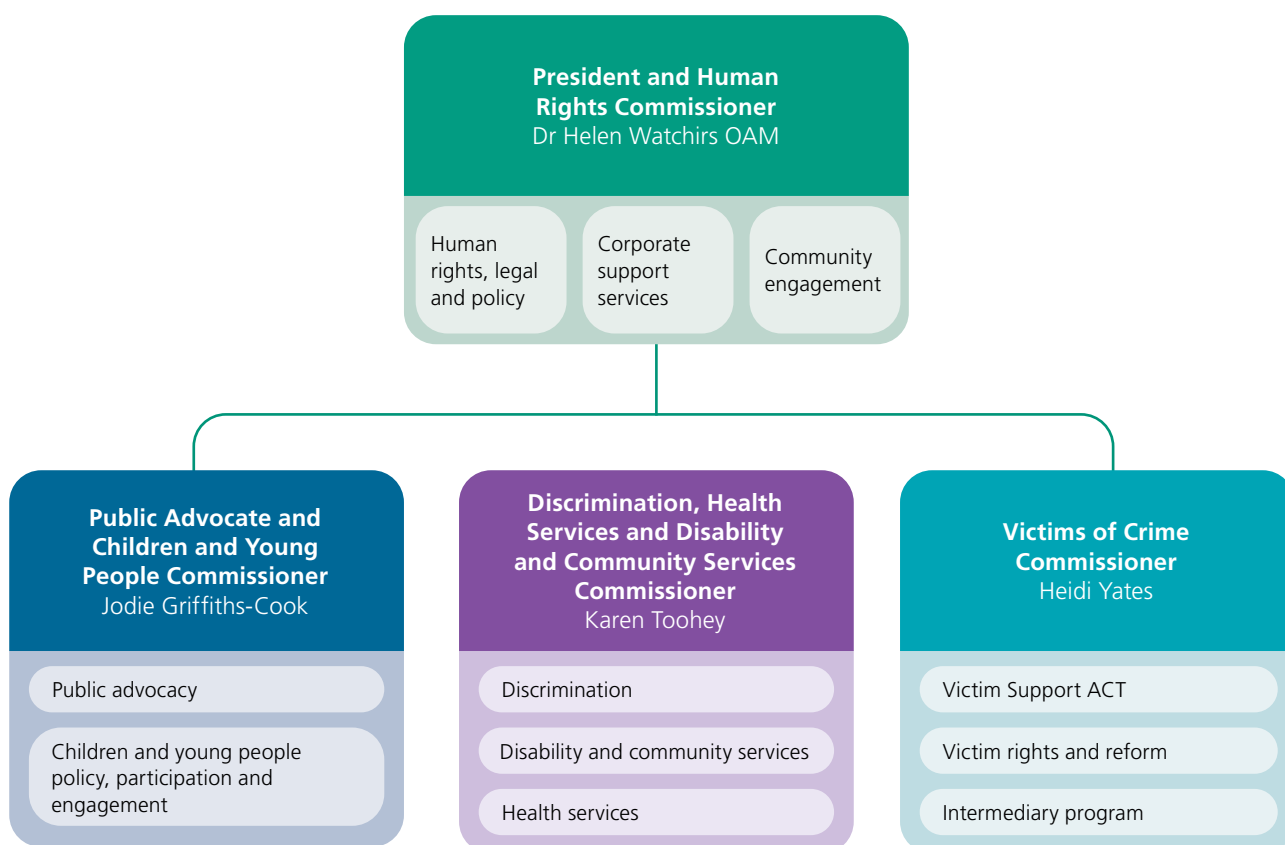
## Social inclusion plan 2019–22

The Commission's social inclusion plan broadens its commitment to creating an inclusive community that respects and realises everyone's rights. The plan covers groups that experience discrimination or disadvantage such as people with a disability, LGBTIQ+ people, older people and people from multicultural communities.

## Ngattai yeddung: Listen good—cultural safety charter

The cultural safety charter is designed to help the Commission provide its clients, staff and colleagues with a safe, nurturing and positive environment where Aboriginal and Torres Strait Islander people are respected. The cultural and spiritual values accepted by Aboriginal and Torres Strait Islander peoples are supported by the Commission's values, processes and policies to ensure culturally safe services.

## ACT Human Rights Commission



# Performance

## COMPLAINTS

In 2020–21, the Commission handled



In 2020–21, the Commission received



↑ Discrimination complaints increased from last year & are up considerably compared to the **78** complaints in 2016–17

**66%** of people who used the Commission's, complaints process said it was fair, accessible & understandable

## HUMAN RIGHTS

In 2020–21 the Commission

provided **63** formal pieces of advice/submissions, including Cabinet submissions

successfully intervened in 2 human rights matters in the **ACT Supreme Court**

provided human rights training to **70** people, including new staff at AMC & Bimberi

## INTERMEDIARY PROGRAM

In 2020–21, the Commission's Intermediary Program

Received

- 242** police referrals
- 31** court referrals
- 11** lawyer referrals

Matched **100%** of referrals with an intermediary whose skills and expertise fit the needs of the witness

Worked with witnesses aged **3–82 years**

## VICTIMS OF CRIME

helped more than **3000** victims of crime

**27%** increase on last year & **64%** increase on 2018–19

Paid **\$2.43 million** in financial assistance to victims of crime

Received **498** new applications for financial assistance

Received **42** concerns under the new Victims Charter of Rights which commenced on 1 January

## PUBLIC ADVOCATE

Provided direct advocacy for **938** children, young people & adults, almost double the number in 2019–20

Reviewed over **7,500** documents involving **1,622** people

Processed **11,750** compliance documents associated with **2,537** people

## President and Human Rights Commissioner

### Working with the Aboriginal and Torres Strait Islander community

The Commission continues to implement its cultural safety charter, Ngattai yeddung: Listen good. The focus on the priority areas of the charter—people’s rights, welcoming place, engage with trust and respect and provide safe services—reinforces the Commission’s commitment to providing our clients, staff and colleagues with a safe, nurturing positive environment where Aboriginal and Torres Strait Islander peoples are respected. The cultural safety reference group provides guidance on the implementation of the charter and during the reporting period TJ Oberleuter joined the reference group as its newest member. Ongoing engagement with the Aboriginal and Torres Strait Islander community throughout the year was provided through a range of meetings, community organisation engagement and included shifting to online engagement, when required by COVID restrictions (see Organisational overview and performance—Ngattai yeddung: Listen good).

### Tours on country

In May and June, 25 Commission staff were taken on tours of Mt Majura and Black Mountain by Ngunnawal custodian, Tyronne Bell. Mr Bell interpreted the landscape, talking about the area’s natural resources and how these were expertly used by Aboriginal people.

One staff member said: ‘Going out on country with a traditional custodian puts in context the work the Commission does, particularly around protection of cultural rights, and what that means in practice and the value that it holds.’

The tours form part of the Commission’s commitments under the cultural safety charter. By placing ourselves on the country in which we work and live, staff get a deeper understanding of the ongoing connection to country; and recognise Aboriginal people’s ongoing connection to land, waterways and resources.



Commission staff during a tour of Mt Majura, conducted by Ngunnawal custodian Tyronne Bell (back, third from right) in May 2021.

### Reviewing Cabinet submissions and other human rights consultations

The Commission worked to promote ongoing respect for the Territory’s human rights framework by assessing proposed Territory laws, policies and government actions against rights in the HR Act and other human rights standards, principles and interests. In 2020–21, the Commission provided an overall total of 63 written legal advices, comments and submissions.

In doing so, the Commission continued its established practice of reviewing draft submissions prepared by government directorates for consideration by Cabinet. Comments were provided on 16 draft Cabinet submissions

in 2020–21. Due to the timing of the 2020 ACT Election and related caretaker period, this amount was 30 fewer formal comments on draft submissions, relative to 46 submissions in 2019–20. As Cabinet deliberations are classified Cabinet-In-Confidence, the issues raised by Commission comments and corresponding outcomes cannot be divulged. Generally, the Commission was satisfied that draft legislation presented during the reporting period achieved compatibility with human rights, whether initially or after suggested changes or further justification.

Outside the Cabinet process, the Commission also provided 47 written pieces of advice, including advice to agencies on request and formal submissions to inquiries and public consultations. Key submissions coordinated by the President and Human Rights Commissioner included:

- In September 2020, a joint submission to the ACT Office of the Inspector of Correctional Services's (OICS) first Healthy Centre Review of the Bimberi Youth Justice Centre.
- In December 2020, a submission to OICS's review of the riot and serious fires at the Alexander Maconochie Centre (AMC) on 10 November 2020, centred on concerns around interim arrangements for social visits to detainees, that were instituted as a result of the current pandemic. The Commission expressed concerns that restricting social visits purely to immediate family and kinship relations could disproportionately disadvantage detainees without immediate family members living in the ACT. Further the policy bore no rational connection to preventing COVID from entering the AMC.
- In November 2020, formal advice to the Justice and Community Safety Directorate (JACSD) as part of the Review of the *Terrorism (Extraordinary Temporary Powers) Act 2006*, outlining why the repeal of the ACT's terrorism legislation, including its tailored human rights safeguards, may be undesirable. The Commission noted that while the Act had not been used to date, it nevertheless provided an important example of a human rights consistent model for responding to the threat of terrorism and could help to moderate the approach taken elsewhere in Australia.
- In May 2021, a joint submission to the Review of the *Mental Health (Secure Facilities) Act 2016*, recommending specialist statutory oversight of restrictive practices in secure mental health facilities and greater attention to their therapeutic (rather than custodial) objectives. The Commission also noted its concerns at the absence of an objects clause in the Act to guide decision-making and the lack of any prescribed minimum living standards to which patients are entitled.

## COVID

The Commission also continued monitoring the human rights impact of legislative and policy responses to the ongoing COVID public health emergency<sup>1</sup>. The HR Act is a valuable tool to ensure that government legislation, policies and actions are targeted, necessary and proportionate.

- The Commission provided essential human rights advice to inform the development of a Territory-wide ethical framework for allocation of intensive care resources should COVID cases exceed capacity. That advice underscored the importance of transparency and the need to uphold the rights to equality and non-discrimination in the allocation of scarce resources. The Commission President and Human Rights Commissioner participated in the Steering Committee responsible for the joint development of an ethical decision-making framework with ACT Health, the Australian National University (ANU) and other healthcare advocacy bodies. Unfortunately this framework has not been published by ACT Health Services.
- The Commission met with ACT Health staff responsible for the COVID vaccine program to outline the human rights implications of making vaccinations mandatory for certain types of employees, such as residential aged care workers, or making access to services contingent on vaccination. The Commission does not support making vaccinations mandatory through the mechanism of public health directions. The Commission considers that measures to mandate vaccination must be enacted in primary legislation to ensure that they are subject to proper parliamentary scrutiny and accompanied by robust safeguards.
- The Commission's human rights team continued to take part in bimonthly meetings with counterparts in other human rights jurisdictions: the Victorian Equal Opportunity and Human Rights Commission and the Queensland Human Rights Commission. Officers' discussions provided opportunities to share lessons, litigation, research and materials and identify common limitations of rights arising out of the COVID emergency and government responses.
- A recurrent theme in our monitoring of COVID responses during the reporting period saw the Commission query the government (in January, March and June 2021) about the adequacy of legislative safeguards against misuse of personal information collected by Commonwealth and ACT mobile applications that facilitate rapid contact tracing of COVID outbreaks. The Commission expressed concerns about the potential for such data to be accessed for purposes other than contact tracing, contrary to assurances that were provided to the public. These matters remained unaddressed during the reporting period, but legislation was introduced on 4 August 2021.

<sup>1</sup> See website for information on COVID and human rights <https://hrc.act.gov.au/humanrights/covid-19-and-human-rights-information-and-resources/>



## Further submissions and engagement

Government directorates and agencies continued to reach out proactively to the Commission in 2020–21 for advice about the consistency of proposed policy changes or legislative proposals with human rights. Such comments, provided outside of formal consultation processes, included:

- In July 2020, feedback to Legal Aid ACT on *Capacity guidelines: A practice guide for legal practitioners* about assessing capacity and a related capacity toolkit.
- In November 2020, feedback on a Public Trustee and Guardian options paper about an ACT Supported Decision-Making Framework.
- Feedback to ACT Corrective Services to inform policy development regarding interim arrangements for social visits during the COVID pandemic (September 2020), detainee strip searches (January 2021) and use of chemical agents against detainees (May 2021).
- Advice to the ACT Revenue Office about human rights implications of prescribing dates for payment of tax liabilities by instalment during the COVID period (July 2020) and proposed payroll tax exemptions to incentivise local employment or retention of apprentices/trainees (August 2020).
- Continuing collaboration with ACT Policing and JACSD to explore human rights-compatible models and legislation for police use of body-worn cameras.

On several occasions during the reporting period, the Commissioner took proactive steps to call for law reform

and other changes necessary to better uphold the rights of people within the ACT. Such advocacy involved written correspondence that:

- In December 2020, formally encouraged the incoming Attorney-General to prioritise work to re-establish an independent law reform body in the ACT. Since the ACT Law Reform Advisory Council was discontinued in October 2018, the ACT has been the only jurisdiction in Australia without an active and independent law reform body.
- In March 2021, voiced the Commission's support to the Minister for Sustainable Building and Construction for including a mandated accessibility standard in the National Construction Code for all new homes and apartments.
- In March 2021, followed up earlier written advice to the then ACT Chief Police Officer about improving safeguards for deployment and use of tasers by ACT Policing members. The Commissioner subsequently met with the ACT Deputy Chief Police Officer and Australian Federal Police (AFP) training coordinators to explore scope to address the Commission's advice in revised guidelines.
- In April 2021, proposed that the Attorney-General explore further reforms to the *Spent Convictions Act 2000* (ACT) based on new spent convictions legislation recently enacted in Victoria.
- Public submissions are available at: <https://hrc.act.gov.au/resources/submissions/>

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## Reforming child protection decision-making

The Commission continued to strongly advocate for the urgent need for external review of child protection decision-making in the ACT, following its joint letter with 11 stakeholders to the Minister for Children, Youth and Families in March 2020, by hosting two online roundtable discussions together with the ACT Government. Both were facilitated by Public Advocate and Children and Young People Commissioner (PACYPC) Jodie Griffiths-Cook and executive branch manager of family safety, Community Services Directorate (CSD), Amber Shuhyta.

The first roundtable in July 2020 was opened by Minister Rachel Stephen-Smith. Speakers included Deidre Mulkerin, Director-General, Queensland Department of Child Safety, Youth and Women; Natalie Lewis, Commissioner, Queensland Family and Child Commission; and

Justin Mohamed, Commissioner for Aboriginal Children and Young People, Victoria. The interstate speakers offered insightful comments about models of external review in those jurisdictions; the types of decisions which are subject to external merits review; and how children and young people, their families and other stakeholders participate in review processes. More than 40 people attended.

A second roundtable in September 2020 included follow-up discussions with ACT stakeholders. The tender process by CSD to appoint a consultant to make recommendations concerning the implementation of external review has not progressed significantly in the reporting period, which is disappointing given that the Commission's joint letter to Minister was sent in March 2020.



## Human rights court interventions

The Human Rights Commissioner may intervene in legal proceedings that involve the HR Act if granted leave by the court (HR Act, s 36). The Commissioner was notified of four such matters during the reporting period, of which the Commissioner sought and obtained leave to intervene in two. The Commissioner also received leave to intervene in a third matter (notice of which was received in the previous reporting period), but this matter settled prior to trial. The Commissioner sought leave to assist the court in another proceeding as *amicus curiae*, but was refused leave in June 2021.

### Johnson v Commonwealth of Australia and Others (SC/17/2020)

At the close of the previous reporting period the Commissioner was preparing to intervene in a civil action against the AFP, which she was notified of in May 2020. This matter, which concerned the assault of a teenager by two officers in January 2017, provided an opportunity for the Commissioner to advise the court about the relevance and application of a police officer's public authority obligations when exercising a function under a Territory law.

In August 2020, the Commissioner successfully applied to the ACT Supreme Court for leave to intervene in these proceedings. The Commissioner was, however, advised in February 2021 that the parties had successfully resolved the matter at mediation and so it would not proceed to hearing.

### Davidson v Director-General of the Justice and Community Safety Directorate (SC/328/2020)

On 21 October 2020, the Commissioner received informal notice of a civil action being brought by a plaintiff detained at the AMC. Over several periods between October 2018 and September 2019, the plaintiff had spent 63 days in segregation in the AMC's Management Unit. He alleged that, during these periods of confinement, ACT Corrective Services (ACTCS) had failed to respect his minimum entitlement to one hour of open air and exercise, required by the *Corrections Management Act 2007*, and his right to humane treatment while deprived of liberty (HR Act, s 19). At issue was whether granting a detainee access to an enclosed rear courtyard (approximately the same

dimensions as their cell, with four solid walls, a thin horizontal window onto a small grassy area with metal mesh overhead) met these standards. There were two purpose-built larger exercise yards which were not currently being used in the fourteen-bed Management Unit.

The ACT Supreme Court granted leave for the Commissioner to intervene on 27 November 2020. The Commissioner filed written submissions in April 2021 and further submissions in reply in May 2021. In her submissions, the Commissioner contended that, properly understood, a detainee's baseline entitlement to one hour of air and exercise per day cannot depend on resources or considerations intrinsic to a prison environment (such as the need to manage prisoners with behavioural problems or to ensure that prison spaces are fit for purpose).

The court heard the matter in May 2021, which included the court and parties' representatives conducting an inspection of the Management Unit. On 17 June 2021, Justice Loukas-Karlsson declared that affording 'access to the rear courtyard of the Management Unit at the AMC does not comply with section 45 of the Corrections Management Act 2007'. Her Honour also declared invalid a June 2019 operating procedure to the extent that it deemed opening the rear cell door to count as a detainee's minimum one hour of fresh air and exercise. However, Her Honour reserved her decision in respect of orders sought under the HR Act. As at the end of the reporting period, a judgment in this matter is still pending.

### R v QX (SC/58/2020)

In November 2020, the Commissioner was notified of a human rights matter relating to appointment of a witness intermediary. This matter, which was part-heard, concerned an interlocutory application in criminal proceedings before the ACT Supreme Court pertaining to a course of alleged sexual offending against a minor. The identity of both the accused and complainant remain subject to a non-publication order. Pursuant to s 4AK of the *Evidence (Miscellaneous Provisions) Act 1991* (EMPA), the court must appoint an intermediary in a criminal proceeding for a prescribed witness unless it is not in the interests of justice to do so.

The accused's application sought an order that it would not be in the interests of justice that a witness intermediary be appointed for the complainant. The accused argued that the complainant did not have a communication difficulty and that the appointment of a witness intermediary would irreparably prejudice his right to a fair trial, including his right under section 22(2)(g) of the HR Act to cross-examine witnesses.

The Commissioner intervened to make submissions that the appointment of an intermediary would not undermine the fairness of a trial where it occurs in accordance with the EMPA and would instead ensure that vulnerable witnesses are treated fairly. The Commissioner submitted that section 22(2)(g) does not require that an accused have the right to cross-examine a witness without the presence of an intermediary. The Commissioner further argued that an assessment of what is required for a fair hearing under section 21 of the HR Act involves a triangulation of interests, including those of the accused, the alleged victim, their family and the community.

The court delivered an *ex tempore* judgment in December 2020 declining the accused's application, with reasons to follow later.

## Amicus curiae in adoption matter

In addition to the above matters involving the application of the HR Act, the Commissioner also sought leave from the ACT Supreme Court to make written submissions on the interpretation of new provisions in the *Adoption Act 1994* concerning the dispensation of parental consent to an adoption. Amendments introduced by the *Adoption Amendment Act 2020* reframed the grounds for dispensing with parental consent to the adoption of a child or young person in section 35(1) of the Adoption Act. The Commissioner has a continuing interest in the interpretation and application of these provisions, having provided important human rights advice to the CSD during their development in the previous reporting period. The Commissioner took the step of seeking leave to assist the court in an *amicus curiae* capacity (i.e. as an impartial friend of the court) because the new provisions and their interaction with the HR Act have received limited judicial consideration to date. However, the court declined the Commissioner's application in this instance in June 2021. Publication of the court's reasons is still pending.

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## Independent advice to members of the Legislative Assembly

Under the *Parliamentary Agreement for the Ninth Assembly for the ACT (2016–2020)*, an agreed priority for executive reform was to permit all members of the Legislative Assembly (MLAs) to seek independent formal advice from the Commission, including human rights assessment of non-executive bills, without notifying the Attorney-General.

In 2020–21, the Commission provided one formal piece of advice to Ms Elizabeth Lee MLA, Leader of the Opposition and shadow Attorney-General in respect of her Crimes Family Violence Legislation Amendment Bill 2021.<sup>2</sup>

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<sup>2</sup> <https://hrc.act.gov.au/resources/advice-to-act-mlas/>

# Discrimination, Health Services, Disability and Community Services Commissioner

## Highlights

### COMPLAINTS

In 2020–21, the Commission handled



In 2020–21, the Commission received



The Commissioner has responsibility for:

- Handling all complaints received by the Commission. These include complaints about alleged discrimination, health services, disability services, services for older people and for children and young people (see New jurisdictions).
- Promoting awareness of rights and obligations provided for by the HRC Act, the *ACT Discrimination Act 1991*, the *Health Records (Privacy and Access) Act 1997* (Health Records Act), the *Residential Tenancies Act 1997* and the *Sexuality and Gender Identity Conversion Practices Act 2020*.
- Improving service provision and outcomes for people protected by the Acts.
- Using Commission-initiated consideration powers to address systemic issues.
- Contributing to legislative and policy development across the jurisdictions administered by the Commissioner.

During the reporting period we were able to accept complaints about the following:

- discrimination, vilification and sexual harassment complaints under the Discrimination Act
- health services complaints
- complaints about access to health records under the Health Records Act
- complaints about services for people with a disability and their carers
- complaints about services for older people and their carers
- complaints about retirement villages
- complaints about services for children and young people
- complaints about veterinary surgeons' services
- complaints about alleged neglect, abuse or exploitation of older people and people with a disability as vulnerable people complaints
- complaints about breaches of the victims' charter of rights
- occupancy dispute complaints
- gender and sexual identity conversion practices complaints.

In 2020–21, the Commissioner received 1,819 enquiries and 922 complaints.

Enquiry numbers increased by 13 per cent and complaint numbers increased by 11 per cent from the previous year. There has been a 35 per cent increase in complaint numbers over the previous two years.

## New jurisdictions

### Occupancy disputes

Commencing from 3 March 2021, the Commission is now able to consider complaints about occupancy disputes. An occupancy dispute can arise where parties to an occupancy agreement have a dispute about that agreement.

Occupancy arrangements include accommodation or living situations not covered by tenancy agreements. This could be temporary or emergency accommodation, people who reside in caravan parks, flatmate or shared home arrangements, short-term stays, boarder/lodger agreements, and other similar, less formal situations.

Occupancy disputes may relate to a broad range of issues. These can include disputes about the payment of fees, house rules, condition of premises and whether an occupant is entitled to continue living in the premises or not.

Students in an education occupancy agreement (e.g., university-provided accommodation) will be able to bring a complaint to the Human Rights Commission from March 2022.

If the Commission is not able to successfully conciliate an occupancy dispute, it can then be referred to the ACT Civil and Administrative Tribunal (ACAT) for determination.

### Victims' rights complaints

From 1 January 2021, the Commission can consider complaints about certain justice agencies in relation to rights set out in the Charter of Rights for Victims of Crime (victims' rights complaint). The charter is set out under the *Victims of Crime Act 1994* and includes five categories of rights:

- respect, privacy and safety
- access to support, services, legal and financial assistance
- information about the administration of justice processes
- information about investigations, proceedings and decisions, and
- participation in proceedings.

Justice agencies must comply with victims' rights. If a victim of crime engages with a justice agency and believes that the justice agency has not complied with victims' rights, that victim of crime can make a victims' rights complaint to the Commission about that justice agency's conduct. Victims' rights complaints may be made about the following agencies:

- ACT Policing
- ACT Director of Public Prosecutions
- ACT Courts and Tribunal acting in an administrative capacity
- ACT Corrective Services
- the ACT Victims Register

- the Restorative Justice Unit
- the Sentence Administration Board acting in an administrative capacity
- the Victims of Crime Commissioner.

### Conversion practices

In March 2021 the ACT Legislative Assembly passed the *Sexuality and Gender Identity Conversion Practices Act 2020* which amended the HRC Act to allow a person to bring a complaint to the Commission about a sexuality or gender identity conversion practice. A sexuality or gender identity conversion practice is a treatment or other practice which has the purpose of changing a person's sexuality or gender identity. The Legislative Assembly recognised that conversion practices often occur outside of formal settings and the Commission was given jurisdiction to deal with complaints from individuals about other individuals and/or organisations providing these services in the ACT. This aligns with the Commission's educative and conciliation functions in finding resolution between parties in a rights-based and inclusive way. If the Commission is not able to successfully conciliate the complaint, it can then be referred to ACAT. ACAT can make a binding determination as to whether a conversion practice had occurred and can make a range of orders to remedy the situation, including cease and desist orders in relation to the practice.

A conversion practice does not include a practice which has the purpose of assisting a person who is undergoing, or considering undergoing, a gender transition; or assisting a person to express their gender identity; or providing acceptance, support or understanding of a person; or facilitating a person's coping skills, social support or identity exploration and development. It also does not include a practice by a health service provider that, in the provider's reasonable professional judgment, is necessary to provide a health service in a manner that is safe and appropriate; or comply with the provider's legal or professional obligations.

The legislation also clearly notes that under section 14 of the HR Act a person has the right to freedom of thought, conscience and religion, including the freedom to demonstrate their religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private, and that it is not intended that a mere expression of a religious tenet or belief would constitute a sexuality or gender identity conversion practice.

Table 1: Enquiries received, four-year comparison

Jurisdiction	2020–21	2019–20	2018–19	2017–18
Children and young people	50	45	75	65
Conversion practices (commenced March 2021)	1			
Disability	28	52	47	85
Discrimination	387	373	406	353
Health services	520	595	600	480
Occupancy dispute (commenced March 2021)	3			
Older people and retirement villages	8	13	24	11
Out of jurisdiction	756	452	413	394
Unregistered health practitioner	1			
Victims of crime (commenced January 2021)	23	33		
Vulnerable people (commenced May 2020)	42	3		
<b>Total</b>	<b>1,819</b>	<b>1,608</b>	<b>1,596</b>	<b>1,426</b>

Table 2: Complaints received, four-year comparison

Jurisdiction	2020–21	2019–20	2018–19	2017–18
Children and young people	21	33	43	21
Disability*	8	9	21	26
Discrimination	218	208	166	166
Health services	640	574	451	418
Occupancy dispute (commenced March 2021)	3			
Older people and retirement villages	6	3	2	2
Victims of Crime Charter (commenced January 2021)	4			
Vulnerable people (commenced May 2020)	22	2		
<b>Total</b>	<b>922</b>	<b>829</b>	<b>683</b>	<b>633</b>

\* The National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission commenced operation in the ACT on 1 July 2019. The Commission can still accept complaints regarding disability services in the ACT and complaints about abuse, neglect or exploitation of people with a disability in the ACT under our vulnerable people jurisdiction. We also handle complaints about disability services under our Discrimination Act provisions.

Table 3: All matters received

Jurisdiction	Enquiries	Complaints	Commission-initiated considerations
Children and young people	50	21	
Conversion practices	1		
Disability	28	8	1
Discrimination	387	218	4
Health services	520	640*	9
Occupancy dispute	3	3	
Older people/retirement villages	8	6	2
Out of jurisdiction	756		
Unregistered health practitioner	1		
Victims of crime	23	4	
Vulnerable person	42	22	14
<b>Total</b>	<b>1,819</b>	<b>922</b>	<b>30</b>

\* Including 249 complaints notified by the Australian Health Practitioner Regulation Agency (AHPRA) and 12 Veterinary Practitioners Board complaints.

## Satisfaction with complaint handling

The Commission measures satisfaction with its complaint process by asking parties to complete an evaluation form when complaints are closed. In 2020–21, 66 per cent of parties said the complaints process was fair, accessible and understandable.

### Feedback about the benefits of the Commission's complaints process:

*"I benefited by having the ACT Human Rights Commission give me a voice with the hospital management staff. I had previously tried to resolve things directly with the hospital, and did not feel like I was being heard until the Commission were involved."*

*"I had a mechanism from which to provide my feedback in a constructive way that was taken seriously."*

*"It provided an independent forum in which we were able to respond factually to matters raised about Housing ACT."*

*"It was very easy. The person from [the Commission] who rang me was lovely. She listened and we chatted easily."*

*"They were able to put alternatives to the hospital instead of chemical restraint. I hope this can help other people in this situation to be treated in a kinder caring way."*

*"It provided an opportunity to achieve a positive outcome regarding a health service. By giving our concern a voice, we hope the complaint results in constructive changes. The review officer was professional and empathetic while maintaining her impartiality."*

*"The conciliation and review officer assigned to my case was extremely helpful. She clearly explained what the process would entail at the start and was accessible throughout the process when we required clarification or guidance."*

*"We were able to state our case and reasons for making the decision that we made in respect of a recruitment process."*

## Health service complaints

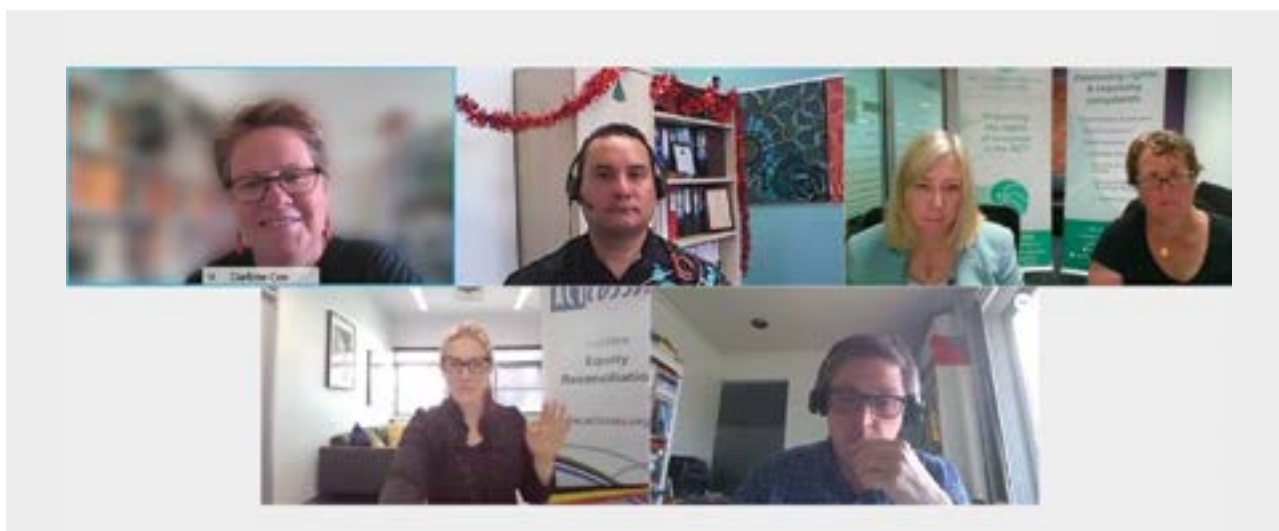
ACT community members can make a complaint to the Health Services Commissioner about any health service provided in the ACT, including public and private health services, individual practitioners, and health services provided in settings such as aged care facilities, supported accommodation and schools.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

The complaint handling team responded to 520 health service-related enquiries and received 640 health service complaints. Of these complaints:

- 379 were made directly to the Health Services Commissioner
- the Australian Health Practitioner Regulation Agency (AHPRA) notified the Commissioner of 249 new matters
- and the ACT Veterinary Practitioners Board notified the Commissioner of 12 new matters.

As with previous years, many complaints relate to communication between practitioners and patients about consent, expectations of treatment and risks associated with particular treatments or procedures.





The Commission's online forum on the right to health—from top left, Darlene Cox, Executive Director, Health Care Consumers Association, Karl Briscoe, CEO of the National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners, Commission President Dr Helen Watchirs with Discrimination, Health Services, Disability and Community Services Commissioner, Karen Toohey, ACTCOSS CEO, Emma Campbell and Andrew Byrnes, Professor of Law, UNSW. The forum was held on International Human Rights Day on 10 December 2021.

**Table 4: Most frequent health complaint issues**

Issue	Number of complaints
Treatment	273
Communication	86
Professional conduct	68
Access	66
Medication	50

**Table 5: Most frequent health complaint respondents**

Provider	Number of complaints
Individual practitioner	337
Public health service	205
General practice	57
Private hospital	12
Pharmacy	6

**Table 6: Most frequent registered practitioner complaints respondents**

Practitioner type	Number of complaints
Medical practitioner	207
Psychologist	31
Nurse or midwife	29
Dentist	26

## Working with the Australian Health Practitioner Regulation Agency

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

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

The *Health Practitioner Regulation National Law 2009* (National Law) requires national boards and the Commissioner to jointly consider how to action complaints against registered health practitioners in the ACT. The boards and the Commissioner jointly decide whether to investigate a practitioner, take regulatory action against a practitioner or close a complaint with no further action.

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

**Table 7: Outcomes to complaints about health practitioners**

Outcome	Number of complaints
No further action	227
Caution	26
Referred to the Health Services Commissioner	26
Conditions	10
Undertaking	5

## Finalised health service complaints

In 2020–21, 609 health service complaints were closed.

**Table 8: Most frequent reasons for closure of health service complaints**

Reason for closure	Number of complaints
Complaint has been considered to the Commission's satisfaction	345
Commission given a reasonable explanation and no further action needed	79
Complaint successfully conciliated or otherwise resolved	57
Conciliation is unlikely to succeed	47
Complaint was referred to health profession board	22

## Health case studies 2020–21

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

### CASE STUDY

#### Community health care causing injury

A man made a complaint about care he received from a community nurse. The man had limited mobility and limited speech. He said that a nurse attended his home to change his catheter. He said that she brought the wrong size catheter with her, and although she noted inconsistency in the health records and the directions for that day's catheter change, she persisted with the incorrect size. The man said the procedure was extremely painful, but he was unable to voice his discomfort to the nurse. Following insertion of the catheter the nurse left despite there being no evidence that the catheter was in the correct position. The man was subsequently admitted to hospital where he required surgery to repair damage and re-insert the catheter.

A conciliation conference was held and the man used assistive technology to participate in the discussions. The matter was successfully resolved at conciliation with an apology, explanation and an assurance that in future he will receive individualised planning, additional time and management to ensure safe handover for continuity of care. The parties also agreed to a financial outcome of \$5,000 in recognition of the man's experience.

### CASE STUDY

#### Undertakings to Dental Board and financial outcome

A person made a complaint to the Commission about a dentist after significant pain following the extraction of multiple teeth and the installation of crowns. The Commission wrote to the dentist seeking a response and sought third party information and independent clinical advice. After joint consideration by the Commission and the Dental Board, the dentist agreed to give undertakings to complete a program of education. The parties participated in conciliation and reached a negotiated financial agreement of \$15,000.

## CASE STUDY

**Access to mental health services in emergency department**

A father raised a complaint about mental health and emergency department services on behalf of his daughter. The father said staff did not adequately consider his daughter's deteriorating mental health or information provided by him as her carer. His daughter was discharged home and re-presented at the emergency department again the next day. After a further assessment she was discharged a second time and then required hospitalisation a few hours later.

A conciliation conference was held with the father and executive clinical staff to discuss the concerns raised in the complaint. Clinical staff discussed areas of improvement for public mental health, including limitations of the service. An apology was offered which assisted parties to resolve the complaint.

## CASE STUDY

**Chemical burns causing eye injury during surgery**

A woman lodged a complaint about an eye injury she received during nasal surgery. The injury was caused by chemical burns from an antiseptic used to clean the surgical area. The woman also raised concerns about her post-operative care, including a lack of compassion, poor pain management and a delay in referring her eye injury to a specialist.

The Commission sought responses from the hospital, the surgeon and the anaesthetist involved in the procedure. The Commission noted the product information indicates that the antiseptic should not be used on the face.

The Commission and the Medical Board of Australia jointly decided to caution the surgeon as their conduct fell below the accepted standard.

The surgeon, the hospital and the woman who lodged the complaint all participated in conciliation. The hospital changed its procedures to prohibit the use of the product in surgeries on the face. The hospital also apologised for the delay in seeking specialist advice for her injuries and changed its nursing procedures to respond to similar concerns by seeking specialist review earlier in recovery. The hospital also had direct conversations with all its surgeons and its nursing staff regarding the issue.

At conciliation, the surgeon committed to improvement, gave an apology and a \$15,000 payment as recognition of the woman's experience.

## CASE STUDY

### Incorrect medication dispensed by pharmacist

A woman lodged a complaint about incorrect medication being dispensed by a pharmacist. She said her prescription was mistakenly changed from a medication to manage indigestion to an antidepressant by a pharmacy. She then attended a different pharmacy who continued to dispense the incorrect medication. She suffered adverse health outcomes because of the change in medication and lodged a complaint against the second pharmacy.

The Commission and the Pharmacy Board of Australia jointly decided to caution the pharmacist who had continued to dispense the incorrect medication.

The parties attended conciliation and the pharmacy undertook to implement changes to dispensing procedures and conduct further staff training. The pharmacy invited the complainant to take a tour of the pharmacy once the changes had been implemented. The pharmacy also made a \$10,000 payment to the complainant to resolve the complaint.

## CASE STUDY

### Own-motion investigation into conduct of naturopath

The Commission initiated an own-motion investigation after receiving information about the conduct of a naturopath. An anonymous person raised concerns a naturopath had advised a patient whose primary language was not English to stop taking prescribed medications. The person stated this resulted in the patient presenting at the emergency department with an exacerbation of their cardiac condition. The Commission sought a response from the naturopath who denied telling the patient to stop the medication, instead stating that they had advised the patient to discuss the medications with her specialist.

Given the serious nature of the concerns raised, the Commissioner made recommendations under section 81 of the HRC Act:

- to use an interpreter fluent in both English, and the preferred language of the client, when consulting with a client with limited English
- to not make any adverse comments about a client's prescribed medication or make any recommendations about prescribed medications other than to suggest the client may wish to seek a review of all current medications with their GP.

## CASE STUDY

### Own-motion investigation into mislabelling of a pathology specimen

A specialist contacted the Commission to raise concerns about the mislabelling of a pathology specimen, which resulted in patient A being provided with unnecessary treatment, while patient B was not aware of a serious medical condition. The Commission undertook an own-motion investigation and the source of the mislabelling was identified. It was established that patient B had been receiving appropriate treatment for their serious medical condition.

As a result of this investigation, a specimen handling procedure was modified, and the relevant medical college placed an article in its fortnightly publication about the importance of having standard operating procedures for manually handling pathology specimens.

## CASE STUDY

### Delayed diagnosis of malignant tumour

A woman complained that the information documented in two MRI reports was incorrect, resulting in delay of treatment for a malignant tumour. The Commission sought a response from the doctor who maintained the findings in the MRI reports, stating that the woman's diagnosis was unusual given the presenting history and images obtained. The Commission obtained independent clinical advice which disagreed with the doctor's view. The Commission and the Medical Board of Australia jointly decided to impose conditions on the doctor's registration to undertake further education. The parties attended conciliation and the matter was resolved with a financial outcome of \$20,000.

## CASE STUDY

**Use of sedation to manage a patient with dementia**

A wife complained that her husband, who has dementia, was over-sedated in hospital as staff did not have the skills to manage his disruptive and aggressive behaviour. She said that this reduced his ability to participate in daily life and rehabilitation, and contributed to general deconditioning. The wife noted her husband's behaviour was subsequently well-managed in an aged care facility. The Commission sought a response from the hospital who stated her husband's deterioration was due to progression of his condition. It acknowledged that sedating medication was prescribed but advised this was used to reduce his agitation and promote sleep. The Commission provided the hospital with details of the settling techniques successfully used by the aged care facility to assist with any further readmissions.

## CASE STUDY

**Own-motion investigation at aged care facility**

The following concerns were brought to the Commission regarding a resident's call for emergency assistance:

- residents' buzzers not being attended to
- phone calls to the facility not being answered
- lack of safe and timely access for paramedics to the facility
- a report that a staff member needed to wake the registered nurse on site when the paramedics arrived.

The facility responded to the concerns and several new procedures were implemented including:

- a registered nurse on duty throughout a 24-hour period carries a mobile phone, with the number posted at the facility entrance
- a new system installed for resident call bells with screens available in the medication room and dining room for alerts, and staff to carry personal electronic device to view alerts
- staffing concerns were addressed by a review of staffing levels reflective of the number of high care and complex need residents and based on the on-call care manager's availability at all times.

**ACT Veterinary Practitioners Board**

The Commissioner also handles complaints about veterinarian services in the ACT under a co-regulatory model with the ACT Veterinary Practitioners Board. Where appropriate the Commissioner can assist the board by offering to assist the parties to conciliate a complaint to discuss the issues in the complaint and reach an agreement to resolve the complaint. This benefits complainants who have concerns about the treatment of their pet or animals and feel they have not had sufficient information about treatment, adverse outcomes for their pet, or billing queries. This process allows us to facilitate resolution of the issues in the complaint separate to the conduct issues being considered by the board.

Twelve new veterinary matters were received and seven matters were closed in the reporting period.

## CASE STUDY

**Incorrect surgical site on dog**

A dog owner complained about the surgical removal of a tumour. The owner said the surgical procedure was done on the incorrect site, leading to poor health outcomes for her dog.

The Veterinary Surgeons Board considered the information provided by the owner, the veterinary practitioner and the supporting documentation including the surgical records. It was noted that the records provided to the surgeon prior to the procedure identified the incorrect site. The records also showed the surgeon had confirmed this site with the owner prior to the procedure, and received consent to proceed with surgery. The board did not consider this to be unprofessional conduct and no further action was taken against the veterinary surgeon.



## National Code of Conduct for Unregistered Health Care Workers

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

The Commissioner previously participated in public consultation processes about legislation to enact the code in the ACT and has continued to work with ACT Health to progress this work. We continue to liaise with health complaint commissioners in other states and the NT about the national approach for implementation of the code.

The Commissioner can deal with complaints regarding unregistered health workers who provide health services under existing health service complaint provisions. However, the Commissioner is not able to take regulatory action equivalent to other Australian jurisdictions until the code is fully implemented in the ACT.

## Discrimination complaints

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

The Discrimination Act is broad, covering many areas of public life, including employment, education, access to premises, accommodation, clubs and the provision of goods, services and facilities; and with a wide range of protected attributes.

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

There were 387 enquiries related to discrimination in 2020–21 and 218 discrimination complaints lodged with the Commission. This is an increase from 208 in the previous period and a significant increase from 78 complaints in 2016–17. In the reporting period, 210 discrimination complaints were closed.

A discrimination complaint can be made on more than one ground and about more than one area of public life covered by the Discrimination Act.

**Table 9: Grounds in discrimination complaints**

Ground of complaint	2020–21	2019–20	2018–19	2017–18
<b>Total</b>	<b>284</b>	<b>353</b>	<b>257</b>	<b>211</b>
Disability	100	90	77	64
Race	38	48	36	34
Sexual harassment	20	20	7	7
Sex	12	20	17	18
Irrelevant criminal record (previously reported as spent conviction)	12	8	13	7
Victimisation	9	25	14	6
Vilified on ground of race	9	9	3	5
Family and domestic violence	9	4	4	1
Parent, family, carer or kinship responsibility	8	17	14	7
Profession, trade, occupation or calling	8	9	6	6
Age	6	10	8	9
Accommodation status	6	8	8	4
Vilified on grounds of sexuality	6	5		2

Ground of complaint	2020–21	2019–20	2018–19	2017–18
Religious conviction	5	11	8	2
Sexuality	5	9	4	5
Gender identity	5	6	1	5
Association with a person who has an attribute protected by the Act	5	4	2	1
Immigration status	3	12	8	5
Physical feature	3	8	6	2
Relationship status	3	4	5	1
Political conviction	3	1	6	2
Vilified on grounds of religious conviction	2	2	1	4
Pregnancy, including potential pregnancy	2	1	3	4
Industrial activity	2	1		2
Vilified on grounds of disability	1	5	1	1
Breastfeeding	1			
Genetic information	1			

Table 10: Areas of public life in discrimination complaints

Area of public life	2020–21	2019–20	2018–19	2017–18
<b>Total</b>	<b>219</b>	<b>226</b>	<b>195</b>	<b>188</b>
Provision of goods, services or facilities	110	100	89	79
Employment	43	46	42	45
Accommodation	25	22	24	14
Vilification through public act, victimisation or sexual harassment (not relating otherwise to another area of public life)	18	25	4	16
Education	12	19	18	15
Membership of a club	4	2	3	
Access to premises	3	7	9	11
Qualifying body	2	1	2	
Professional trade or organisation	1	1	1	5
Employment agency	1	1		

Table 11: Most frequent respondents to discrimination complaints

Most frequent respondents	2020–21	2019–20	2018–19	2017–18
ACT Government department, agency or statutory authority	108	84	70	71
Private enterprise	58	62	55	64
Individual	26	21	18	19
Community organisation	26	18	16	12

**Table 12: Most frequent reasons for closure of discrimination complaints**

Reason for closure	Number of complaints
Complaint successfully conciliated or otherwise resolved	55
Complaint withdrawn	47
Conciliation unlikely to succeed	43
Complaint referred to ACAT	29
Commission given a reasonable explanation and no further action needed	8

## Discrimination case studies

### CASE STUDY

#### Newspaper publishes clarification

A person made a complaint to the Commission about a newspaper headline that they claimed vilified people with disability and was discriminatory towards people associated with people with disability. The Commission wrote to the newspaper seeking a response and provided the response to the complainant for feedback and review. The newspaper initially did not agree to conciliate, but after the complainant requested it reconsider, the newspaper offered to publish a clarification as a means of resolving the complaint. The complainant accepted this offer and the clarification was published.

### CASE STUDY

#### Race discrimination and education

A woman said that her children were being treated unfavourably at school because of their race. The woman said the method of teaching at the school disadvantaged her children's learning experience. The woman said she made an application for an out-of-area enrolment but this was unreasonably declined. The woman sought an appeal of this decision as an outcome to her complaint and the children were subsequently transferred to a new school.

### CASE STUDY

#### Mobility parking permit

A disability advocate lodged a complaint on behalf of their client about disability discrimination in the provision of goods, services and facilities by a government agency. The advocate said their client had received parking infringements because he had displayed a copy of his mobility parking permit on his vehicle rather than the original. The person used a copy of the permit because he found it difficult to reach the permit and transfer it from one vehicle to another due to his physical disabilities. He also said that numerous parking inspectors had told him it was reasonable for him to use a copy of his permit. In response, the agency explained that it is a strict liability offence for a person to display a copy of a parking permit. After several discussions with the agency to explore alternative options, the agency agreed to provide the person with a second mobility parking permit.

### CASE STUDY

#### Family responsibilities discrimination in the workplace

A woman alleged discrimination on the basis of her family responsibilities, regarding the way she was spoken to in the workplace. She also alleged disability discrimination in the work conditions she was subjected to upon her return after an injury. The matter was resolved in conciliation with the employer agreeing to offer the woman a position that she was happy with.

## CASE STUDY

**Disability discrimination and housing**

A man notified his housing provider that his disability was being exacerbated by his housing situation and requested a transfer to another property. The man alleged that his housing provider failed to address his needs and to accommodate his disability. The matter was resolved in conciliation with the accommodation provider agreeing to prioritise his transfer to a more suitable property; liaise with him regularly about this transfer; pay him \$2,000 in financial compensation; provide him with a written apology and to undertake a review of its services to people with disabilities.

## CASE STUDY

**Race discrimination at work**

A man alleged he was subjected to racially discriminatory comments of a sexual nature made by colleagues in his workplace. He also alleged victimisation by his workplace when he raised these issues. The matter was resolved in conciliation with the employer agreeing to financial compensation of \$7,000.

## CASE STUDY

**Immigration status discrimination in employment**

A woman alleged she was terminated from her employment due to her immigration status despite her visa arrangements which enabled her to work. The matter was resolved in conciliation with the employer agreeing to a financial compensation payment of \$8,000.

## CASE STUDY

**Sex discrimination and sexual harassment in employment**

A woman alleged she was discriminated against during her employment in a retail business due to sexual comments and aggressive language by her employer. The woman claimed she was unable to return to the workplace due the impact this behaviour had on her health, and she resigned.

The matter was resolved through facilitated negotiations between the parties with the employer agreeing to provide the woman with an apology and a reference (both in agreed terms), compensation of \$10,000, reimbursement for up to 10 consultations with a psychologist of the woman's choice and payment of entitlements.

## CASE STUDY

**Irrelevant criminal record and employment**

A woman complained that she was discriminated against as she was informed she was unsuccessful in a recruitment process following the result of a police check without any opportunity to explain the context of her offending. The woman alleged that the form she completed was unclear so she had ticked yes and no in response to a question about her criminal record. The woman stated her offences were mainly historical and were connected to a relationship with an ex-partner who subjected her to severe domestic violence.

The matter was resolved at conciliation with the employer agreeing to reinstate the woman to their temporary employment register and also to identify whether there were any suitable positions available for the woman currently.

## ACT Civil and Administrative Tribunal referrals

If a discrimination complaint is not resolved at conciliation, the complainant can ask the Commission to refer the matter to ACAT for a determination. The Commission referred 29 complaints to ACAT in 2020–21. The following is a selection of matters determined by ACAT.

### **Kidman v Casino Canberra (Discrimination)**

The applicant, a union delegate, was employed by the Casino and alleged that the operator of the Casino treated him unfavourably because of industrial activity.

The applicant's contract of employment required him to comply with workplace policies and procedures including an employee handbook and a code of conduct.

In December 2018, the respondent told employees that the Casino had been sold. The union became concerned about the respondent's refusal to provide undertakings about future pay and conditions. The union's media team contacted the Canberra Times, and an article featuring the applicant was published.

The Casino operator wrote to the applicant setting out concerns about his statements in the article, asserting that the applicant may have breached the Casino's handbook, which stated that Casino Canberra team members must not 'spread or support rumours/gossip'.

ACAT found that as the letter was the first step in a process of disciplinary action it amounted to unfavourable treatment. ACAT was also satisfied that the necessary causal link between the unfavourable treatment and the protected attribute of industrial activity could be inferred from the evidence. ACAT also noted that 'obtaining publicity by participating in interviews with a local newspaper is lawful activity often used by industrial unions to advance the views and interest of members'.

ACAT held that the respondent had discriminated against the applicant in his employment with the Casino because of his industrial activity. In addition to ordering the respondent to pay general damages of \$4,000 and the applicant's legal costs of \$4,620, ACAT required the respondent to display a copy of ACAT orders on employee noticeboards for a period of 14 days. While parties generally bear their own costs in discrimination matters, ACAT made an order for costs because the respondent caused unreasonable delay.

### **Clinch v Rep (No 2) (Discrimination)**

The applicant alleged that the respondent vilified her on the ground of gender identity and victimised her for having made a previous complaint of a similar kind, when the respondent had agreed to post an apology on their social media page as part of a mediated settlement.

After the apology was posted, numerous negative public comments about transgender people were made, including by the respondent, who also liked some comments made by others.

ACAT found that the posts were a breach of the vilification provision in the Discrimination Act. ACAT also found that the respondent had victimised the complainant including through posts from which the respondent could be inferred to be talking about the applicant and through the respondent's comments naming the applicant and the proceedings.

ACAT ordered the respondent to remove all material that was identified by the applicant before ACAT, and any similar content from any social media site the respondent controls, and also pay the applicant \$10,000 in compensation.

### **Phillips v The Australian Capital Territory, represented by Chief Minister, Treasury and Economic Development Directorate (Discrimination)**

The applicant was employed by the Community Services Directorate (CSD), and following workplace bullying in 2017 was diagnosed with post-traumatic stress disorder (PTSD). She took leave and undertook some periods of part-time work. In October 2018, she lodged a workers compensation claim which was approved in December 2018. On 1 March 2019, the ACT became a self-insurer for its workers' compensation scheme.

Ms Phillips alleged that the ACT subjected her to indirect discrimination on the ground of her disability (PTSD) in the way her worker's compensation claim was administered.

ACAT found that by the insurer's failure to respond to Ms Phillips' enquiries and requests in relation to her workers' compensation claim over a lengthy period, it imposed a requirement upon her that she pursue her entitlements without substantial assistance from the insurer.

ACAT also found that Ms Phillips was disadvantaged by the requirement. ACAT concluded that the cause of the disadvantage to Ms Phillips was her PTSD and that the disadvantage occurred in the area of public life associated with employment.



ACAT also found that the requirement was not reasonable in all of the circumstances, which is the final component in establishing indirect discrimination.

In determining that Ms Phillips was indirectly discriminated against by the insurer by requiring her to conduct her worker's compensation claim without substantial assistance from the insurer, ACAT referenced paragraph 4(d) of the Discrimination Act that equal application of a rule to different groups can have unequal results or outcomes; and that the achievement of substantial equality may require the making of reasonable adjustments, reasonable accommodation and the taking of special measures.

ACAT ordered the ACT, in its role as insurer and through its contracted claims manager and rehabilitation provider, by March 2022 to provide training to staff dealing with injured workers with a mental injury so as to minimise risk of triggering symptoms or otherwise exacerbating the injury; to institute improved processes for dealing with such injuries to avoid delays in processing claims, providing injured workers with timely responses, keeping injured workers informed of progress on claims and providing timely advice to informing injured workers of any impediments to claims proceeding. In addition, ACAT ordered the ACT to pay Ms Phillips \$9,000 for general damages.

## Disability and community service complaints

The Disability and Community Services Commissioner has responsibility for handling complaints about services for older people and their carers, disability services, services for children and young people, vulnerable people, conversion practices, occupancy disputes, the Victims of Crime Charter and retirement villages in the ACT.

### Disability services complaints

The Commissioner can consider complaints against disability services in the ACT, including respite services, in home care, accommodation, transport, advocacy or employment.

Complaints about disability services can also be dealt with under the Discrimination Act, which has an enforceable remedy available through ACAT; and as of May 2020 under the vulnerable people complaints function, giving people with disability a range of options and remedies available to them under different jurisdictions.

### Complaints about services for older people and retirement villages

The Commissioner's jurisdiction includes considering complaints about services for older people and their carers. Complaints may concern a range of services including personal and home care services, respite care and day programs.

The Commission is also able to consider complaints against retirement villages. Complaints include any concerns about the service provided by the retirement village operator. Where possible, these matters are resolved informally through direct contact with the operators. If the Commission is not able to resolve a retirement village complaint, the person who lodged the complaint may ask the Commission to refer the matter to ACAT.

Complaints from older people may also be dealt with under other jurisdictions, such as age discrimination, health or disability services, and now under the vulnerable people complaints function.

### Complaints about services for children and young people

The Commissioner also deals with complaints about services for children and young people. Complaints may involve any service provided to children and young people, including education, sport, child protection, out of home care and child-specific health services such as mental health services, and youth justice.

### Vulnerable persons

In May 2020, the role of the Commissioner was expanded to include a new complaints function for abuse, neglect or exploitation of vulnerable people. A vulnerable person is a person aged over 60 years who experiences barriers to participation in the community because of a disability or social isolation, or an adult with disability. This is a broad jurisdiction filling a gap identified in consultations about improving protections for vulnerable people in the ACT.

Vulnerable person complaints provide an avenue for family, friends, neighbours, service providers, health workers or community members to bring concerns to the Commission's attention. The Commission's response to these concerns will be determined by the nature of the concerns raised. The Commission may provide information and support, engage other professionals and/or conduct an investigation.

**Table 13: Community service matters received and closed**

<b>Jurisdiction</b>	<b>Enquiries received</b>	<b>Complaints received</b>	<b>Complaints closed</b>
Children and young people	50	21	23
Conversion practices (commenced March 2021)	1		
Disability	28	8	5
Occupancy dispute (commenced March 2021)	3	3	
Older people and retirement villages	8	6	7
Victims of Crime Charter (commenced January 2021)	23	4	
Vulnerable people	42	22	17

## Disability and community service complaints case studies

### CASE STUDY

#### Children's counselling service

The Commission received a complaint from a father about a counselling service provided to his child. The father said that his son had stated very clearly that he did not wish to see a specific family member. Despite this, the counsellor arranged for that family member to be present in the same room as the child, which caused the child considerable distress. The counselling service provider participated in conciliation, provided both the father and child with an apology, and provided an update on the changes that had occurred in the provision of its services, including in their intake process, in the information they provide to clients, in the creation of a new position to provide support in between counselling sessions and case management, and by addressing with the counsellor in question the specific concerns raised in the complaint.

### CASE STUDY

#### Health and safety of vulnerable person

Concerns were raised with the Commission regarding the wellbeing of a person who had not been sighted by family, neighbours or friends in several weeks. The Commission was advised that one of this person's sons was the enduring power of attorney (EPOA) and that he had been making decisions regarding his father's personal and healthcare matters inconsistent with medical and specialist advice.

The Commission inquired with a number of individuals. In light of the information provided, the Commission facilitated a referral so that assistance could be provided for an application to be made to ACAT for a review of the EPOA. ACAT appointed a new EPOA and ordered a health and safety assessment of the person's needs so they could live safely in their home.

### CASE STUDY

#### Neglect of a person with a disability

A community health worker contacted the Commission to raise concerns about a client living at home with her partner. He reported the client was living in squalor and was declining access to support services which would have assisted her in her home. The health worker raised concerns about her capacity to make decisions about her care; and concerns that her partner was not assisting the person with basic everyday activities.

The Commission facilitated referral to the public health service who arranged for an aged care assessment to be carried out. The woman was subsequently moved from her home into residential aged care with her consent.

## Commission-initiated considerations

A Commission-initiated consideration can be conducted where there is concern about a systemic problem—for example, where:

- several complaints or notifications about a particular practice or organisation are received
- a complaint is made anonymously raising concerns within the Commission's jurisdiction
- someone with a grievance does not have personal standing, capacity, involvement or authority to make a complaint
- the community raises an issue in the media or through community organisation representations.

In these circumstances, the Commissioner becomes the complainant and matters are investigated as a complaint. In a Commission-initiated consideration, the Commissioner will work with organisations to resolve any issues identified during the investigation process. This may include recommending an organisation update policies or practices, undertake staff training or education, and recommendations to improve service delivery or compliance with relevant standards.

The Commissioner can make formal recommendations, and in those cases will seek evidence of compliance or will revisit the issues with the organisation after an agreed review period. The Commissioner can now also take discrimination Commission-initiated considerations to the tribunal for determination.

In 2020–21, the Commissioner began thirty new Commission-initiated considerations and closed nine.

**Table 14: Commission-initiated considerations**

Jurisdiction	New	Closed
Vulnerable person	14	10
Health	9	6
Discrimination	4	1
Older person	2	1
Disability	1	
Total	30	18

## CASE STUDY

### Children's service provided by a school

The Commission received a complaint from a woman, on behalf of two of her sons, about a service for children and young people provided by a school in the ACT. The complaint alleged the school would not allow the woman's two sons to be re-enrolled in 2020. She was informed of this decision a fortnight before they were to recommence school, and was advised that this decision was based on the alleged conduct of herself and her husband, and was not related to her sons' behaviour or conduct at the school. The woman also alleged that the decision to cancel her sons' enrolment was victimisation for having made a previous complaint to the Commission about the school about different events.

In our consideration of the complaint, we were of the view that the decision to not allow the two brothers to re-enrol in 2020 was inconsistent with the National Principles of Child Safe Organisations, and the school did not appropriately provide a service for children and young

people. We made a number of recommendations in our final report, which we published on our website.

These recommendations included that the school conduct a review of its policies and practices, and provide a report of its review to the Commission, the Education Directorate and the Commonwealth Education Department, outlining how each of the policies, agreements and any other associated documents and practices have been amended to be consistent with each of the principles outlined in the national principles, with the protections against discrimination in Discrimination Act and the obligations in the Education Act 2004.

Additional recommendations were made to the ACT Government in relation to considering comprehensive registration standards for non-government schools and oversight mechanisms of nongovernment schools to ensure it is able to investigate complaints or concerns about noncompliance with registration standards.

## CASE STUDY

### Palliative care services provided in the ACT

The Commission received a complaint about end-of-life palliative care services provided to a woman in the ACT. The complaint raised concerns that the end-of-life care provided in this instance may not align with the community expected standard.

The complainant advised that her mother had an advance care plan which documented her wishes to have sufficient medication to control pain and/or anxiety in the terminal stage of illness. Her mother had, on several occasions, told clinical staff she wanted to be asleep at the time of her death. The complainant believed that her mother should have been offered effective palliative sedation at the end of her life. The complainant was deeply concerned that her mother had been distressed in the hours before her death and was of the view that more could have been done to make her mother comfortable.

Information provided to the Commission indicated that the specific criteria for the use of palliative sedation therapy raised concerns about the equitableness and practical implementation of palliative sedation provided by limiting access to palliative sedation for people experiencing psychological or existential distress rather than physical symptoms. The Commission was also concerned that this policy and other documents detailing end-of-life care services in the ACT are not publicly available and so do not inform the choice of patients seeking to access palliative services in the ACT.

In discussion with providers involved in the Territory-wide palliative care working group, the Commission was advised that service provision is not consistent across the Territory and in some instances does not reflect the full extent of services available from providers outside the Territory. The Commissioner is of the view the full range of palliative care treatments should be available to patients accessing palliative care services in the ACT irrespective of where they access those services.

Following our investigation, the Commission made recommendations including:

- details of the palliative care services provided by health services should be made available to the public online, in print form, and in any other communication format used to communicate with patients accessing palliative care in the ACT
- that palliative care providers in the ACT ensure their palliative sedation policies are consistent with the ACT consensus statement on the use of palliative sedation in the ACT
- that palliative sedation policies in the ACT include specific reference to use of palliative sedation therapy to treat terminal agitation/ restlessness and psychological or existential distress without distinction.

## Victims of Crime Commissioner

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

The functions of the VOCC include:

- advocating for the interests of victims of crime
- monitoring and promoting compliance with the governing principles (to 30 December) and the new Charter of Rights for Victims of Crime (from 1 January)
- responding to concerns related to victims' experiences of the criminal justice system
- ensuring the provision of efficient and effective services for victims
- promoting reforms to meet the interests of victims
- developing educational and other programs to promote awareness of the interests of victims
- ensuring victims receive the information, support, assistance and advocacy they need
- delivering the Victim Services Scheme (VSS) and the Financial Assistance Scheme (FAS).

In addition, the VOCC is the ACT Domestic Violence Project Coordinator as outlined in the *Domestic Violence Agencies Act 1986*. The work of the coordinator is assigned by the Domestic Violence Prevention Council. The coordinator's functions in relation to reducing the incidence of family violence include:

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

The VOCC is also responsible for administering the Intermediary Program under Chapter 1B of the *Evidence (Miscellaneous Provisions) Act 1991*. The VOCC is responsible for establishing and maintaining a panel of qualified intermediaries who provide independent advice to police, and at court, about a witness's communication needs.

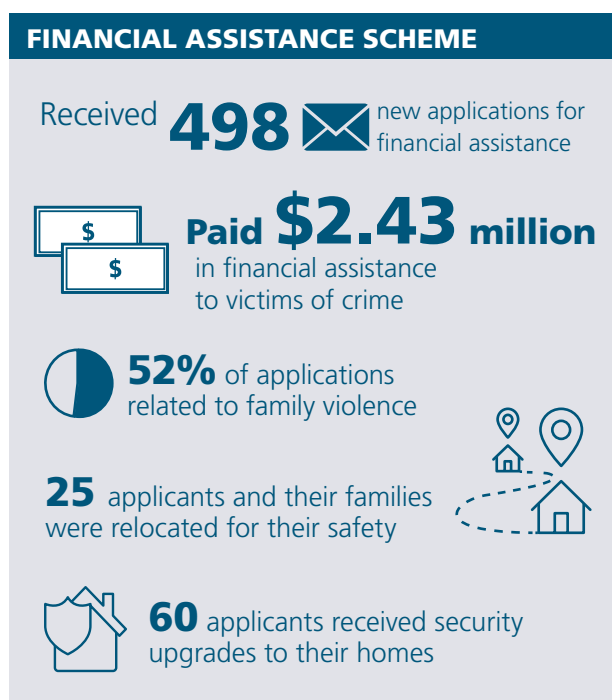
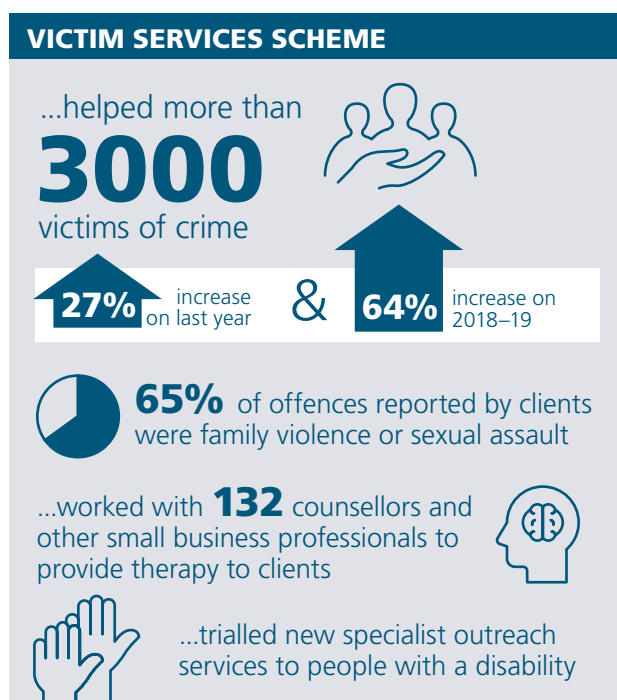
This year, the VOCC has also been responsible for establishing the Family Violence Safety Action Pilot, a new initiative developed in collaboration with the Coordinator-General for Family Safety to promote coordinated identification of, and response to, high-risk family violence matters.



*Victims of Crime Commissioner, Heidi Yates at a press conference in March 2021, marking the first anniversary of the ACT Intermediary Program.*



## Highlights



## Victim Support ACT

### Victim Services Scheme

The VSS provides a broad range of supports to people affected by crime in the ACT. Case coordinators working in the client services team (CST) offer information about what to expect after a crime, including what to expect from the justice system. CST provide referrals and information about other services relevant to people's needs including legal and family support services. CST provide advocacy to assist people with the criminal justice system and link people with free counselling and other therapies under the Victims of Crime Regulation 2000. We also provide guidance to people making applications under the Victims of Crime Financial Assistance Scheme.

When a person contacts VSACT, they are assigned a case coordinator who assists them throughout their time with our service. We do this to provide continuity to clients, recognising that the justice and service systems can be confusing and overwhelming.

During the reporting period, VSACT responded to an increased volume of clients seeking access to VSS services. In 2020–21, the VSS engaged with 3,083 total clients. This is a 27 per cent increase on 2,429 clients in 2019–20, and a 64 per cent increase on 1,884 clients in 2018–19.

The number of clients accessing intensive case coordination under the VSS has also increased markedly from

- 1,051 in 2018–19
- to 1,487 in 2019–20
- to 1,869 in 2020–21.

This represents a 78 per cent increase over the past two years, and a 145 per cent increase over the past 4 years.

In addition to in-house support provided by case coordinators, clients receive free therapeutic support via approved providers. VSACT's provider panel consists of 132 small business providers with a range of skills including counsellors, clinical psychologists, massage therapists and mental health social workers. This year, providers worked with VSACT clients for over 11,600 hours, noting that 16 of our providers speak a language other than English.

In the reporting period, COVID continued to drive a significant surge in demand for family violence-related support. Thanks to the Commonwealth national partnership on COVID 19 domestic and family violence responses, VSACT secured funding for two additional case managers to help meet increased demand for family violence-related counselling, case coordination and advocacy. This enabled the CST to provide more intensive support to clients, including to women from non-English-speaking backgrounds. Overall, VSACT experienced a 66 per cent increase in the number of clients seeking family violence support in 2020–21 (1,266) compared to 2019–20 (761 clients).

Commencing in November, the CST also worked closely with our colleagues in the Family Violence Safety Action Pilot team to refer and support clients at high risk of harm through a coordinated service response. Since 1 January, the CST has worked closely with our colleagues in the rights and reform team to implement the Charter of Rights for Victims of Crime, including advising clients of their rights under the charter and assisting them to raise and resolve concerns.

In July 2020, the CST transitioned to a new electronic database. This involved a change in many internal processes and archiving hard copy client files.

## CASE STUDY

### Supporting Annie and her mum

Annie reported to her mother, Sally, that she had been sexually assaulted by a family friend and intimate images of the abuse had been distributed online. A VSACT case coordinator provided support to ensure that Sally and Annie received regular updates from police throughout the investigation. The case coordinator also referred the family to the eSafety Commissioner for assistance having the images removed from social media. Sally and Annie were connected with free, ongoing, counselling with VSACT providers. Leading up to the trial, the case coordinator liaised with court staff to arrange a remote witness room and requested that the Court companion dog be available when Annie gave evidence. The case coordinator also arranged childcare for the period when Sally had to give her evidence. Throughout the trial, a VSACT court support

volunteer provided Sally with a parking permit, arranged safe entry and exit to the court, and provided support throughout the day. The volunteer later helped the family to prepare their victim impact statements, and to apply for financial assistance. During this process, Sally disclosed a previous history of being sexually assaulted when she was a young person. With help from the case coordinator, the same VSACT volunteer supported Sally to report this abuse to police. VSACT continues to assist Sally and Annie as they navigate justice and service systems.

## CASE STUDY

### Respecting Saima's cultural and religious beliefs

Saima was referred to VSACT by Supportlink. Saima grew up in Bangladesh and had been in Australia for less than a year. Saima had limited English and few social supports in Australia. She had been significantly impacted by family violence, including physical, emotional, financial and spiritual abuse (using spiritual beliefs to hurt and control) perpetrated by her partner. Saima had ended her relationship shortly before being referred to VSACT and needed a culturally appropriate service that would ensure her cultural and religious beliefs were considered and sensitively addressed.

Saima had safety concerns and wanted to make a report to the police. However, because of a previous negative experience, she was reluctant to do so without support. VSACT advocated for a statement appointment with police and organised a female interpreter, as per Saima's request. Saima was pleased with her reporting experience and said she would feel comfortable contacting police independently in future.

VSACT explained the process for obtaining a family violence order to Saima with the help of an interpreter. When Saima decided to make an application, VSACT linked her with Legal Aid support and organised for a VSACT volunteer to attend court with her through the application process.

Saima was worried that community members would alienate her following her report of family violence and expressed a wish to meet a broader range of women from her cultural background. VSACT connected Saima to the Multicultural Hub, where she could access practical supports, including driving lessons, English classes and social gatherings.

Saima indicated she also wanted to build her employment skills and begin looking for work. VSACT linked her with a children's services program which organised free childcare to enable Saima to attend CIT classes. Many months later when Saima advised she was ready to begin counselling, VSACT linked her with a counsellor who spoke Saima's first language.

Table 15: VSS client assistance

	2017–18	2018–19	2019–20	2020–21
<b>Clients provided with case coordination</b>				
New clients registered for case coordination	404	524	689	853
New clients registered for case coordination compared to the previous year	24%	30%	31%	24%
Existing clients with new experiences of violence	6	6	107	156
Existing registered clients receiving ongoing service	630	521	691	860
<b>Total</b>	<b>1,040</b>	<b>1,051</b>	<b>1,487</b>	<b>1,869</b>
<b>Clients provided with information, referred to other services or unable to be contacted</b>				
Advice, information or referral	429	544	613	755
Referral received and client declined service	140	80	44	73
Out of scope/inappropriate referral	25	23	15	33
Clients unable to be contacted after 3 attempts	207	186	270	353
<b>Total</b>	<b>1,841</b>	<b>1,884</b>	<b>2,429</b>	<b>3,083</b>

Figure 1: Referrals to VSACT

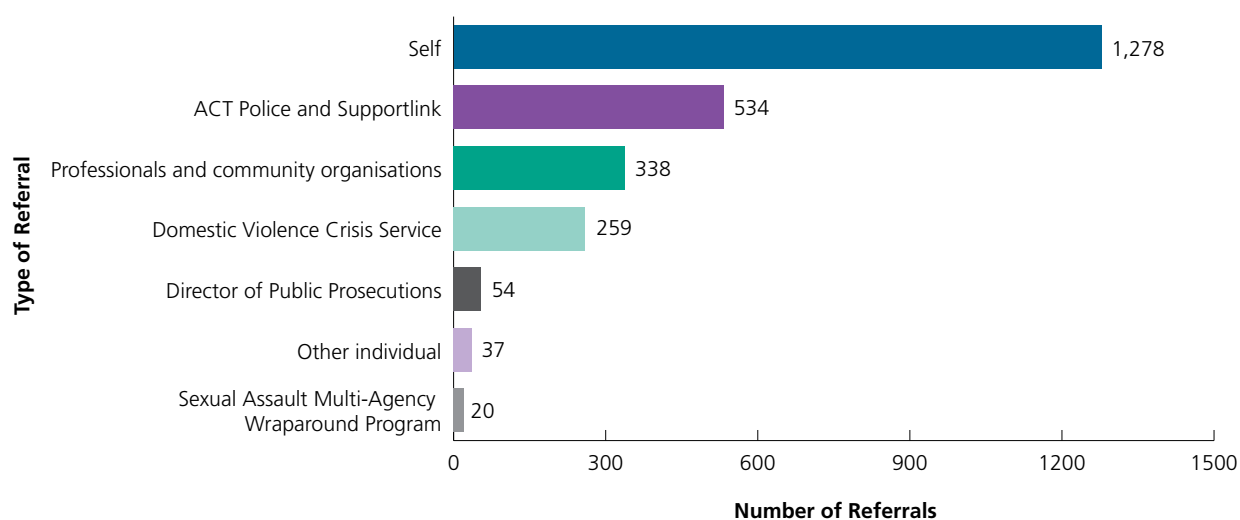


Figure 2: Offence type

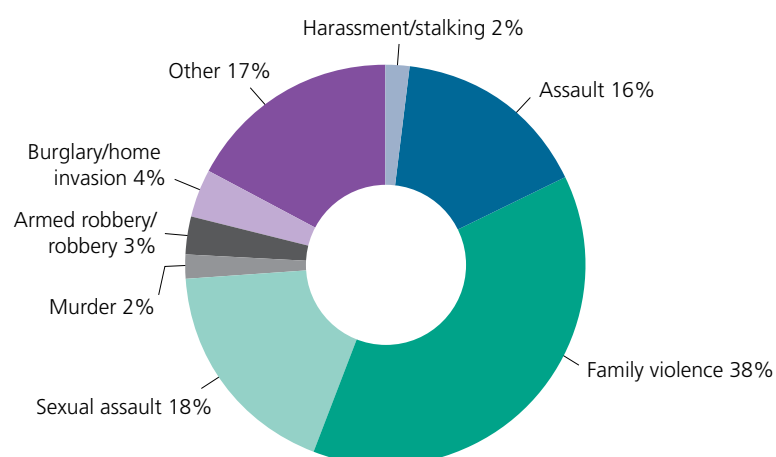
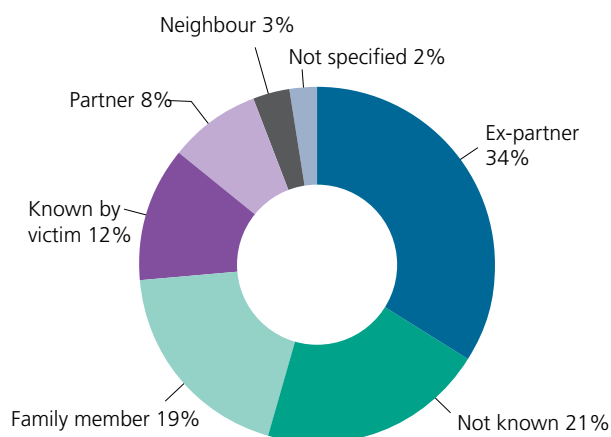


Figure 3: Gender of clients provided with case coordination

Female	1,283
Male	296
Unspecified	290
Total	1,869

Figure 4: Relationship to offender



\* Data only available for 22 per cent of all clients who received case coordination in 2020–21.

## Financial Assistance Scheme

2020–21 was another busy year for the FAS, with continued growth in the number of ACT community members receiving assistance and increases in payments made for immediate need and economic loss.

498 new applications were lodged in 2020–21. This was slightly less than 2019–20 (513 applications) but a 361 per cent increase compared to 2016–17, the scheme's first year of operation. Approximately 52 per cent of applications received during 2020–21 related to family violence.

Table 16: Summary of FAS payments

FAS payment category	2019–20	2020–21	Variance on 2019–20
Immediate need	\$168,327	\$204,145	+21%
Economic loss	\$170,296	\$192,560	+13%
Recognition payments	\$2,994,712	\$1,991,725	-33%
Funeral expenses	\$8,000	\$21,425	+168%
Medical examinations	\$30,517	\$8,648	-72%
<b>Total</b>	<b>\$3,371,852</b>	<b>\$2,418,503</b>	<b>-28%</b>

Table 17: Percentage of FAS applications from vulnerable groups

Applications received from vulnerable groups	2019–20	2020–21
Aboriginal and Torres Strait Islander	12%	17%
Culturally and linguistically diverse	14%	6%
People who identify as having a disability	9%	16%

## Immediate need payments

Immediate need payments assist victims with urgent expenses, as prescribed by the Victims of Crime (Financial Assistance) Regulation 2016. Applications can be made for the cost of cleaning a homicide scene, personal security (e.g. changing locks, installing security screens), relocation for personal security (e.g. removalists, storage unit), emergency medical costs and related services that contribute to recovery.

The 2020–21 there were 140 payments made to, or on behalf of, 90 applicants totalling \$204,144.79. The total value of personal security measures provided by FAS increased to \$142,242.13, an 84 per cent increase compared to 2019–20.

Table 18: FAS immediate need payments in 2020–21

Type of immediate need payment	Number of payments made	Amount
Cleaning the scene of a homicide	0	\$0
Measures for personal security of a victim	80	\$142,242
Relocation for personal security of a victim	56	\$59,575
Emergency medical costs and related services that would contribute to victim's recovery	4	\$2,328
<b>Total</b>	<b>140</b>	<b>\$204,145</b>

## Economic loss payments

Economic loss payments cover financial costs incurred as a result of an act of violence. FAS was designed to complement other victim services and can make direct payments to providers as well as reimbursing applicants for out-of-pocket expenses.

- 27 per cent of economic loss payments were made for loss of earnings, an increase of 172 per cent compared to 2019–20
- the total overall value of economic loss payments increased by 13 per cent.

**Table 19: FAS economic loss payments**

Types of economic loss payments	Number of payments made	Amount
Expenses for counselling or other psychological support	35	\$30,918
Expenses, other than legal costs, incurred in making the application	17	\$3,110
Medical and dental expenses	102	\$70,678
Travel expenses	12	\$5,397
Justice-related	3	\$1,260
Loss of actual earnings (including loss of earnings incurred by a parent or carer of a primary victim)	10	\$52,930
Reasonable expenses incurred by the parent or carer of a primary victim	0	\$0
Other expenses in exceptional circumstances	13	\$26,933
Loss of or damage to personal items	2	\$1,334
<b>Total</b>	<b>194</b>	<b>\$192,560</b>

## Recognition payments

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

- 18 per cent of recognition payments were for assault occasioning actual bodily harm
- there was a 110 per cent increase in recognition payments for the offence of aggravated robbery compared to 2019–20.

**Table 20: FAS recognition payments by offence**

Type of offence	Number of payments made	Amount
Act endangering health	4	\$5,687
Act endangering life	4	\$12,457
Act of indecency in the third degree	1	\$10,621
Acts of indecency with young people	2	\$26,002
Act of indecency without consent	5	\$13,535
Aggravated robbery	7	\$18,951
Assault occasioning actual bodily harm	72	\$199,911
Attempt murder	4	\$86,608
Causing grievous bodily harm	2	\$28,168
Common assault	31	\$44,679
Demands accompanying threats	1	\$2,707
Forcible confinement	8	\$24,307
Non-consensual distribution of intimate images	1	\$3,250
Recklessly inflict actual bodily harm	1	\$3,250
Recklessly inflict grievous bodily harm	11	\$129,793
Related victim (class A)	1	\$21,699
Related victim (class B)	3	\$32,499
Sexual assault in the first degree	1	\$24,377
Sexual assault in the second degree	3	\$69,068
Sexual assault in the third degree	1	\$20,314
Sexual intercourse with young person	7	\$150,324
Sexual intercourse without consent	17	\$199,341
Stalking	12	\$17,603
Threat to inflict grievous bodily harm	1	\$1,625
Threat to kill	15	\$44,949
<b>Total</b>	<b>251</b>	<b>\$1,191,725</b>



## Recognition payments (violent acts pre-July 2016)

Section 203 of the *Victims of Crime (Financial Assistance) Act 2016* provides that a person may apply for financial assistance for an act of violence that occurred before 1 July 2016 and would have been subject to the repealed 1983 Act.

As outlined below, there are two different recognition payments that can be made for acts of violence that occurred before 1 July 2016.

### Certain sexual offences

If the act of violence occurred in the context of sexual offences pursuant to sections 51 to 62 of the *Crimes Act 1900* (ACT), the maximum recognition payment is \$50,000. Of the total number of applications received in 2020–21, 6 per cent related to historical sexual offences (sexual offences before 1 July 2016). In 2020–21, there were 16 recognition payments made to applicants in this situation, totalling \$800,000.

**Table 21: Recognition payments under section 203 by offence**

Type of offence	Number of payments made	Total amount of payments made
Acts of indecency with young people	1	\$50,000
Act of indecency without consent	1	\$50,000
Incest and similar offences	3	\$150,000
Maintaining a sexual relationship with young person	1	\$50,000
Sexual intercourse with young person	3	\$150,000
Sexual intercourse without consent	4	\$200,000
Sexual intercourse without consent (in company)	3	\$150,000
<b>Total</b>	<b>16</b>	<b>\$800,000</b>

### Extremely serious injury

If an act of violence causes an extremely serious injury, the maximum recognition payment is \$30,000. There were no payments made in 2020–21 for extremely serious injury.

### Funeral expenses

A person is eligible to apply for a funeral expense payment if the person has paid, or is required to pay, the costs of a funeral for a primary victim who has died as a result of homicide. In 2020–21, there were three payments made totalling \$21,425 for funeral assistance.

## Review of Commissioner's decisions

Decisions made by the VOCC under FAS can be reviewed internally or by ACAT. In 2020–21, the VOCC reviewed and confirmed three decisions. There were no external reviews conducted by ACAT.

### CASE STUDY

#### Securing Marianne's home

Marianne's husband, who was also her carer, had subjected Marianne to family violence for many years. Marianne recently attended hospital after her husband strangled her, resulting in multiple bruises across her neck and body. Marianne applied for financial assistance in relation to both physical and psychological injuries.

Marianne's home had been modified to meet her needs, so after separating from her husband she did not want to move house. Marianne received financial assistance to upgrade her home security, which included new security screens and security cameras. Marianne also received a recognition payment and financial assistance for medical treatment including review by a specialist, radiology scans and speech pathology.

### CASE STUDY

#### Payments for expenses and John's loss of earnings

John was at home watching television when two masked men broke into his home demanding money. They were armed with a machete and a metal pole. John received multiple cuts to his head and body and suffered a broken bone in his shoulder.

John required multiple surgeries to fix his shoulder and rehabilitation including physiotherapy and occupational therapy. At the time of the assault, John was self-employed as a builder and was unable to return to work. John received a recognition payment, medical expenses and payments to cover his loss of earnings related to the attack.

## Outreach programs

### Aboriginal and Torres Strait Islander program

The program responds to the needs of community, families and children in the ACT by working with and walking alongside Aboriginal and Torres Strait Islander people who have experienced harm and trauma, legacies of actions taken from the time of colonisation through to the present. Program staff aim to engage respectfully and responsively with those who invite the program's work into their lives. People are supported in a range of environments and situations including in community, homes, yarning circles, health facilities, prison and mental health settings, as well as other locations that circumstances require.

Over the last year, program staff have worked directly with women, men and children in a broad range of settings and in response to a wide range of circumstances. This includes working with individuals engaged in the justice system to help them provide evidence to the police and in court, craft their victim impact statements or seek advice on various aspects of the law affecting their lives. Staff have provided assistance in a range of criminal and family violence matters.

The program has also provided adults, young people and children with trauma-informed and culturally responsive practical and emotional support as they leave violent relationships and settings, including assisting clients to engage with other services such as accommodation and therapeutic services. Program staff have facilitated access to culturally responsive counselling and trauma programs.

Assistance to obtain financial assistance, including emergency financial assistance at times of acute need, has also been provided.

The program has a range of valued partner organisations and it has significantly strengthened working relationships with these organisations over the past year. These include Everyman, YWCA, Child and Family Centres around the ACT and the Jerrabomberra Wetlands Yarning Circle. Once the COVID lockdown ended, women clients were once again able to connect at the Jerrabomberra Wetlands Yarning Circle.

Strong working relationships continue to exist with a wide range of other stakeholders and organisations also. These include the Education Directorate, Canberra Health Services and ACT Housing. Engaging with mainstream services and assisting to open client referral pathways and develop mainstream services' cultural capacity remains core program work. Mainstream organisations regularly refer families and children for support, while also seeking advice regarding how to engage responsively and safely.

This year the program assisted 134 clients. However, this number does not reflect the stories or reality of working side-by-side with women, men and children within community. Many of the staff's interactions, yarns and deep efforts to reach out and connect parents, cousins, aunties and bubs to appropriate services in an empowering and respectful way are not able to be recorded using client numbers alone.

The program's staffing profile changed this year, with long-term colleague and program creator Tanya Keed taking a leave of absence to commence postgraduate studies. Her highly experienced colleague continued to meet clients' needs through a period of lessened staff capacity, until two additional colleagues were able to join the program. Staffing changes led to a temporary dip in program capacity. The replenished program now has a full complement of experienced staff, who continue to provide culturally responsive, respectful services to members of their community.

Program team members may provide support to a family or individual over several weeks or several years, depending on their needs and level of support required.

#### CASE STUDY

### Ongoing support helps keep a family together

Our Aboriginal and Torres Strait Islander program received a referral from a local child and family service for a woman, aged 28 years, and her 5-year-old daughter and 2-year-old son. The woman had experienced violence from the children's father over the last eight years, including physical assaults during her pregnancies. The client fled the house after her partner threatened to suffocate their son. Our Aboriginal liaison officer (ALO) met with the client and her children on the morning she left home. The woman described a long history of family violence, physical abuse, controlling behaviours and fears for her life. Child Youth and Protection Service (CYPS) had been involved and there was an ongoing risk of the children being removed if she couldn't access stable accommodation.

Our ALO explored the woman's community and family connections, identifying possible sources of family support. Our ALO then contacted OneLink with the client to secure emergency temporary accommodation. Further referrals were made to a community organisation that provides temporary accommodation to Aboriginal families in crisis. Once immediate accommodation and safety needs were addressed, and the family was settled into their crisis accommodation, our ALO supported the woman to apply for a family violence order. The ALO also facilitated contact with police regarding ongoing threats from her ex-partner.

While providing the above support, the woman disclosed being sexually and physically abused during her own childhood in residential care. When the client said she felt ready to speak to a counsellor some months later, the ALO organised this through VSACT's provider scheme.

The program provides ongoing support to this woman and her children.

## Multicultural program

VSACT's multicultural program aims to:

- increase access to VSACT services for people from migrant, refugee and asylum-seeker backgrounds
- ensure VSACT policies and programs are culturally responsive to the needs of all Canberrans
- identify and provide advice on systemic and emerging issues for victims of crime from Canberra's multicultural communities.

To deliver these aims, VSACT maintains active links with multicultural bodies at the territory and national levels, including the ACT Office for Multicultural Affairs, the Migration Council of Australia and the Settlement Council of Australia. VSACT also has strong referral pathways across the multicultural and justice sector including Companion House, Australian Red Cross, the Multicultural Hub, the Migrant and Refugee Settlement Services (MARSS), Legal Aid ACT, ACT Courts, the Director of Public Prosecutions (DPP) and ACT Policing. VSACT attends regular multicultural meetings and forums, such as Multicultural Matters and humanitarian settlement meetings.

In the reporting period, VSACT initiated and contributed to a range of community consultations along with education and awareness initiatives. For example, VSACT is part of the weekly Muslim women's group which commenced in February 2021 and is currently supported and hosted by the Multicultural Hub at the Theo Notaras Centre. The group aims to overcome social barriers and provide women an opportunity to participate in activities independently, in turn creating their own friendship and support groups.

VSACT's cultural liaison officer has been one of four Multicultural Advisory Council members advising government on how to develop and establish the proposed Multicultural Recognition Act, consistent with commitments set out in the 10th Parliamentary Agreement. The Act will importantly establish a multicultural charter

and provide a legislative footing for the Multicultural Advisory Council. VSACT supports the establishment of this new legislative framework to ensure the voices of Canberrans with diverse cultural heritage are represented in ACT Government policies and practices, including those relating to the justice system and victim support services.

COVID has negatively impacted VSACT's multicultural outreach capacity, particularly in the first half of the reporting period where much of community had minimised face-to-face gatherings. Despite these limitations, the program assisted VSACT to support 190 clients from migrant and refugee backgrounds. The top five languages our clients spoke in this cohort were: Arabic, Dinka, Hindi, Mandarin and Persian/Dari.



The Commission's multicultural liaison officer with community members at Mon national day celebrations in February 2021.

## CASE STUDY

### Support and culturally safe services for Eva

Eva was referred to VSACT by a local community leader after experiencing family violence. Eva had limited English, multiple children under the age of four and was on a temporary visa, with no financial support or eligibility for Centrelink. Eva refused to engage with mainstream services after a poor initial experience with a local service which did not provide her with culturally appropriate support. Through our cultural liaison officer, VSACT provided Eva with the following support:

- liaising with one of ACT Policing's multicultural liaison officers to organise a home visit with a qualified interpreter so Eva could report the family violence to police
- linking Eva and her children with the Women's Health Service and a GP who spoke her language
- supporting Eva to make a family violence order application with advice from Legal Aid ACT
- linking Eva with the cultural liaison officers at Legal Aid ACT to get advice on her visa, divorce, property settlement and matters involving care of her children
- assisting Eva to apply for VSACT's FAS and to access trauma counselling with a service provider who spoke her language
- organising for culturally appropriate weekly food vouchers and baskets to be delivered to Eva and her children
- linking Eva and her children with the multicultural women's service to support social participation and connections
- linking Eva with an English language tutor to visit her on a weekly basis
- raising Eva's concerns with the mainstream agency which failed to provide her with a culturally appropriate service
- liaising with Eva's embassy and department of Home Affairs so she could action her preference to return to her country of origin
- advocating with a local charity for assistance for the cost of Eva's flights home
- ensuring Eva had the option of continuing her counselling sessions via Skype once she returns to her country of origin.

## Disability outreach project

VSACT has been working to increase the accessibility of our services for people living with disability. In March 2021, VSACT secured short-term funding via the ACT Disability Justice Strategy to employ our first disability liaison officer (DLO). The DLO represents VSACT on the Disability Justice Strategy community of practice (CoP), where she contributes to the development of CoP work plans, provides support to DLOs in other justice agencies, and contributes to delivery of the strategy in the context of VSACT's functions. In the reporting period, VSACT provided support to 160 people identifying as having a disability.

The DLO manages a case load of clients with disability, providing case coordination, advocacy and connections to therapeutic providers. The DLO also provides internal leadership to make VSACT more accessible, appropriate and safe for clients with a disability. This includes making sure VSACT's services meet client needs, ensuring clients can access VSACT in a range of ways and building systemic capacity across the VSACT team to ensure we have the training and knowledge to provide high quality services to victims of crime with a disability. The DLO also leads our external engagement with the disability sector,

where she works to raise understanding of our services, establish strong referral pathways across the disability sector, and seeks feedback on how we can continuously improve VSACT service provision to people with a disability, including outreach work as required.

The DLO and the CST trialled a client needs assessment tool, as part of the strategy's CoP, to assess whether a client requires additional support to access the service. Beginning in February, VSACT asked over 120 clients the questions provided by the tool. As a result, approximately 59 reasonable adjustments were provided to clients.

To ensure VSACT is better equipped to meet the needs of client with disability, we also facilitated training in February run by the Sexual Violence Prevention Association. This training was available to all VSACT's registered counselling providers and staff. The training focused on providing best practice, evidence-based therapeutic care for people with an intellectual/learning disability and/or with communication or cognitive issues.

## CASE STUDY

## Protection order for Maria

Maria, a woman with an intellectual disability, was referred to VSACT and disclosed that she'd been sexually assaulted by a male known to her. The DLO supported Maria to engage with ACT Police, and recommended the use of a witness intermediary. Police engaged a witness intermediary for Maria's evidence-in-chief interview but decided there was insufficient evidence to lay charges.

The DLO then supported Maria to get help from Legal Aid to apply for a protection order at the Magistrates Court. The DLO supported Maria to understand the justice process and supported justice staff to understand Maria's reasonable adjustment needs. With regular support from the DLO, a twelve-month personal protection order was granted by the court.

## Redress counselling and direct personal responses

The National Redress Scheme is a response to the Royal Commission into Institutional Responses to Child Sexual Abuse. People who have experienced abuse can apply to the scheme and will have their application assessed by a team within the Department of Social Services. If an application is approved by an independent decision maker, an offer of redress is made which can include three components:

- a payment of up to \$150,000
- counselling and psychological support
- a direct personal response (DPR).

Applicants have access to legal advice to understand any implications of accepting an offer of redress. An applicant can accept an offer of any or all three redress components.

VSACT provides counselling to successful applicants who live in the ACT when they accept a redress offer. In the reporting period, VSACT was also the contact and coordination point for DPRs where the ACT Government was the institution responsible. VSACT provided significant services to one person who was abused in an ACT Government institution and sought a DPR.

Redress clients are eligible for counselling support from VSACT over the course of their lifetime and can also access case coordination support from our service. Clients are matched with counsellors on the VSACT provider panel or survivors can use their preferred counsellor, who can then be paid under the scheme.

Since the scheme began in July 2018, 68 people who experienced sexual abuse in an institution have accepted counselling with VSACT as part of their redress package.

Forty-one people were referred to VSACT in 2019–20 by the scheme. During 2020–21, 18 new clients made contact to initiate redress counselling, and 16 redress clients continued to access counselling.

The uptake numbers for redress counselling across Australia have been low. VSACT is participating in an interjurisdictional working group chaired by the Department of Social Services that is looking at ways to increase uptake and improve the quality and accessibility of redress counselling.

## Volunteer court support program

VSACT's volunteer court support program is delivered by highly skilled, trained volunteers. Our volunteers support people affected by crime at various points in the ACT court system.

In 2020–21 volunteers provided:

- 288 hours of support to clients at court
- 63 hours supporting clients to prepare a FAS application, draft a victim impact statement or report a crime to police.

Overall, the volunteer program supported:

- 50 clients in relation to family violence or personal protection order applications
- 28 clients at criminal or civil hearings.

While COVID continued to impact the capacity of volunteers to support clients face-to-face, volunteers were able to provide victims with the following support:

- attendance at meetings with the DPP
- attending court orientation and familiarisation tours
- facilitating safe entry and exit at court, including arranging Sheriff escorts
- giving evidence in the courtroom, a remote witness room or at sentencing hearings
- attending appointments with Legal Aid ACT to apply for a personal protection or family violence order
- attending preliminary conferences and final hearings for protection orders
- attending 'meet and greet' appointments with police, and making police reports
- attending other justice-related appointments including with Legal Aid ACT
- completing FAS applications or victim impact statements
- providing research and administrative support to the VOCC and VSACT teams.



Volunteers are provided with tailored support and de-briefing by the volunteer coordinator. Throughout the year volunteers are also provided with the opportunity to:

- attend volunteer quarterly meetings, enabling volunteers to get together, share their experiences and debrief over afternoon tea
- attend training, to expand understanding of the criminal justice system and other services available to help people affected by crime.

The volunteer program is administered in accordance with the VOCC's functions under section 22(j) of the Victims of Crime Regulation 2000.

#### **Client feedback on volunteer support at family violence order preliminary conference:**

*'The volunteer was exactly the reassurance I needed and was a gentle but strong force to navigate the experience. I was not 100 per cent happy with the result but having them there was invaluable. Thanks guys.'*

#### **CASE STUDY**

### **Consistent volunteer support for Leah**

Leah called VSACT seeking assistance to attend court and give evidence following a sexual assault. Leah was nervous about attending court, so Leah's case coordinator arranged for a volunteer to attend a preliminary meeting at the DPP with Leah, to assist her to prepare. A few months down the track, it was time for Leah to give evidence in court. The same volunteer was able to support Leah in the remote witness room while she gave evidence. When it was time for the court to hand down a sentence, Leah was supported by the volunteer to complete her victim impact statement and to attend sentencing. Leah said the support from the volunteer was invaluable and she appreciated having the same person support her through the process.

## **Family violence safety action pilot**

### **Pilot highlights**

In the reporting period, the pilot:

- worked across the government and non-government sectors to support the safety of adult and child victim survivors at serious risk of harm or lethality

- supported collaborative practice and increased the visibility of perpetrators of domestic and family violence (DFV) in the ACT
- built on a foundation of listening to, and walking alongside victim survivors, amplifying their voices and experiences to inform service system responses.

### **Overview**

The pilot is funded by the Commonwealth Government's national partnership on COVID-19 DFV responses, and is a short-term expansion of the Family Violence Intervention Program's case-tracking process.

The pilot was established in the reporting period to:

- enable the ACT Government and non-government sectors to collaboratively identify, assess and respond to high-risk DFV matters, with a focus on perpetrator accountability
- provide an expanded integrated risk assessment and response model to identify, assess and respond to people who may be at high risk of DFV
- increase the safety, health and wellbeing of those persons subjected to DFV
- increase the visibility and accountability of DFV perpetrators.

The pilot aims to improve the safety of victim survivors by:

- collecting and sharing information to identify and assess the risk of harm that a DFV perpetrator poses to victim survivors, including children and young people
- improving perpetrator visibility and accountability in government and non-government responses to DFV
- increasing service accountability to victim survivor safety through collaborative action planning and service delivery
- improving understanding across government and non-government agencies of the dynamics of DFV, victim survivor safety and perpetrator accountability.

The pilot delivers short-term, DFV-informed case coordination. Matters are also be discussed at our fortnightly collaborative meetings attended by:

- ACT Policing
- CYPs
- HACT
- ACT Corrective Services
- DVCS
- Everyman
- Toora
- Legal Aid
- Victim Support ACT.

Other agencies attend where relevant to specific matters.

## CASE STUDY

## Building rapport and trust with Amanda

Amanda, a young Aboriginal woman, was referred to the pilot by CYPS after relocating to Canberra from interstate, due to the behaviour of the perpetrator, Matt. Matt was physically violent towards Amanda. He had also monitored Amanda's phone and prevented her from seeing her family or connecting with community. Matt had previously threatened to kill Amanda and had assaulted her while their young daughter, Laura, was present.

When Amanda relocated to the ACT, Matt followed her, physically assaulted her and was imprisoned. While Matt was in custody, the pilot engaged with Amanda to complete behaviour mapping to better understand Matt's patterns of behaviour and how this affected Amanda and Laura. The pilot case manager created a picture of the many ways in which Amanda resisted Matt's violence and supported her family, despite Matt's extensive use of violence and control.

Amanda initially asked the pilot for very practical support applying for public housing, childcare and accessing Aboriginal health services. By supporting Amanda with these things, the pilot case manager was able to build rapport and trust with her. This matter was presented at two pilot multi-agency meetings, with a focus on providing information about how Amanda has worked to keep herself and Laura safe, as well as how Matt's behaviour has continued to undermine Amanda's safety and parenting. This information enabled service responses to be guided by Amanda, and service support and action planning to be realistic, taking into account Matt's behaviour and its impact on Amanda and Laura's day-to-day lives. As Matt's potential release date approached, DVCS, ACT Policing, CYPS and ACT Corrective Services worked collaboratively to offer Amanda and Laura additional support—including crisis options—and to identify ways to increase the service system's visibility of Matt's post-release conduct.

## CASE STUDY

## Safe support for Lisa and her son

Lisa was referred to the pilot when she and her 8-year-old son, Sam, were at imminent risk due to the behaviour of her husband, Steve, who controlled their daily lives. Lisa, Sam and Steve lived together. Steve monitored where Lisa and Sam went and who they spent time with. Steve had physically assaulted Sam in the past and had also strangled Lisa. Lisa has never called police or reported any of the violence. CYPS became involved after Sam's school became worried about his welfare. The pilot case manager worked closely with the CYPS worker to establish safe contact with Lisa during work hours. For over two months, much of the pilot case manager's contact with Lisa has been about understanding Lisa and Sam's daily experience, to inform safety planning. Lisa has identified that it would be too unsafe for her to leave the relationship right now. Lisa's main concern is Sam's safety. The pilot case manager has supported Lisa and Sam to liaise with the ACT Policing Sexual Assault and Child Abuse Team (SACAT) to better understand what would happen if she reported Steve's abuse. At the collaborative meetings, the pilot has been able to highlight the risks posed by Steve to Lisa and Sam and the barriers to Lisa leaving the relationship. The pilot will continue to work with Lisa over the coming months to map Steve's behaviours, support her links with police and DVCS, and work with Sam's school so that both Lisa and Sam have appropriate and responsive connections for accessing safety and support in the future.

Figure 5: Referrals to pilot

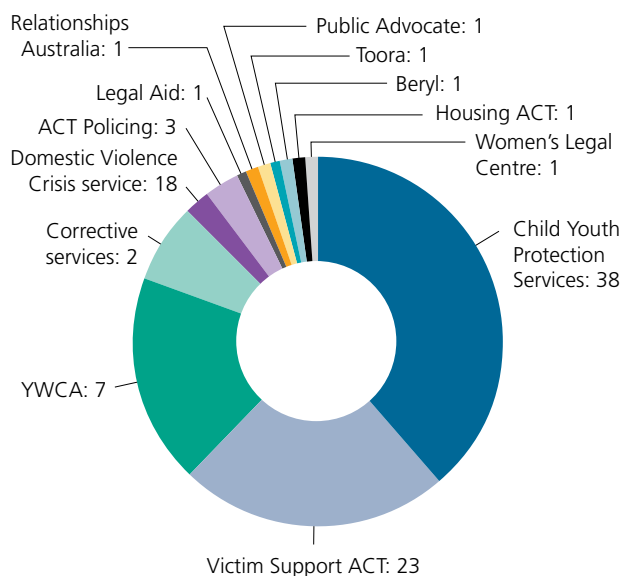


Table 22: Victim/ survivors reviewed and referrals

Number of victim/ survivors reviewed by the pilot	<b>129 (with 180 children)</b> This includes all referrals to the pilot, as well as families where referrers contacted the pilot to discuss possible options and supports.
Referrals made to the pilot that were taken to triage meetings	<b>98</b> This includes referrals made in writing, by phone and in person.

## Victims' rights and reform

The VOCC is tasked with advocating for positive systemic change to meet the rights and interests of victims of crime under section 11 of the *Victims of Crime Act 1994*. The VOCC and the victim rights and reform team work directly with people affected by crime to promote reform that is informed by victim experiences and contemporary research.

### Charter of Rights for Victims of Crime

A large focus of the 2020–21 financial year was the continued development and early implementation of the Charter of Rights for Victims of Crime. The charter commenced on 1 January 2021 and replaced the governing principles in the *Victims of Crime Act 1994*. It is the most comprehensive, legislated set of rights for victims of crime in Australia.

The charter acknowledges the central role that victims play in the criminal justice system and their inherent interest in criminal justice proceedings. It recognises not only the harm caused to victims from the offence itself, but the potential for further harm caused by engagement with the criminal justice system. The charter is a significant step forward in strengthening the ACT's human rights framework to better uphold the rights of victims of crime.

The specific rights for victims of crime outlined in the charter relate to:

- the respect, privacy and safety of victims
- access to support services and other forms of assistance
- provision of information about criminal justice processes
- updates about investigations, proceedings and decisions made in relation to individual matters
- participation and the right to be consulted or heard at specific stages in the proceedings.

Victims of crime who feel their rights have been breached have the choice of raising a concern with VSACT; making a complaint to the ACT Disability and Community Services Commissioner who can initiate a formal conciliation process between the victim and the justice agency involved; or raising a complaint directly with the relevant justice agency.

The VOCC and the rights and reform team have worked hard to educate the community about the charter, through community engagement and the development of resources that inform victims about the criminal justice system and victims' rights.

All justice agencies, including VSACT, have received permanent funding to meet their obligations under the charter. This funding supports a part-time victim rights advocate within VSACT. The advocate manages concerns raised with the VOCC under the charter and

liaises with other justice agencies to resolve these concerns. To ensure concerns are resolved effectively and efficiently, the advocate is building a community of practice with our newly-funded colleagues in other agencies.

### Charter reporting

#### Complaints about VSACT

Under section 18I of the *Victims of Crime Act 1994*, all justice agencies must report on complaints received about their agency in the relevant financial year. No justice agency complaints have been received by VSACT in this reporting period.

#### Victim concerns received

Under section 18J of the *Victims of Crime Act 1994*, the VOCC must include a statement about how many victims' rights concerns were raised with the VOCC in the reporting year, including the rights raised in these concerns, and whether the concerns were resolved.

Between 1 January, when the charter commenced, and 30 June, 42 victims' rights concerns were raised with the VOCC. It is noted that some victims of crime raised more than one concern (for example, at different stages during the criminal justice process) and some concerns were raised about more than one right.

Most of the victims' rights concerns (38) raised with the VOCC related to ACT Policing. Concerns were raised in relation to the following rights:

- 36 concerns were raised about the victim's right to be engaged with respectfully and with appropriate regard to their personal situation, needs, concerns, rights and dignity (section 14C)
- 15 concerns were raised about the victim's right to timely updates about the status of the police investigation (section 16A)
- 4 concerns were raised about the victim's right to entitled special requirements or any aid or adjustment reasonably necessary to enable the victim to participate in the administration of justice (s15A)
- 1 concern was raised about the victim's right to a referral to a service that provides support or assistance suitable for the victim and their circumstances (s15)
- 1 concern was raised about the victim's right to privacy of personal information (s14F)
- 1 concern was raised about the victim's right to be informed about a victim impact statement (s15F)
- 1 concern was raised about the victim's right to tell the court or authorised officer about their concerns regarding the need for protection from violence or harassment by the accused person (s17).

Table 23: Victims' rights concerns raised with VOCC by agency\*

Justice agency	Number of concerns raised with VOCC
ACT Policing	39
DPP	5

\* One concern involved two justice agencies.

Table 24: Victims' rights concerns raised with VOCC (required to be reported under s18J(1) of the *Victims of Crime Act 1994*)\*

Victims' rights concern	Charter right in relation to which the concern was raised	Whether the VOCC was able to resolve the concern within 2020–2021 financial year	The entity to which the VOCC referred the concern under s18G(3)
1.	Respectful engagement (see s14C)	Yes	Nil
2.	Respectful treatment	No	Human Rights Commission
3.	Respectful engagement	Yes	Nil
4.	Respectful engagement	Yes	Nil
5.	Respectful engagement	No	Nil
6.	Respectful engagement	No	Nil
7.	Respectful engagement	Yes	Nil
8.	Respectful engagement	No	Nil
9.	Respectful engagement	No	Human Rights Commission
10.	Respectful engagement	Yes	Nil
11.	Respectful engagement	No	Nil
12.	Respectful engagement	Yes	Nil
13.	Respectful engagement	No	Nil
14.	Respectful engagement	No	Nil
15.	Respectful engagement	Yes	Nil
16.	Respectful engagement	No	Nil
17.	Respectful engagement	No	Nil
18.	Respectful engagement	No	Nil
19.	Respectful engagement	Yes	Nil
20.	Respectful engagement	No	Nil
21.	Respectful engagement , timely updates (see s16A)	Yes	Nil
22.	Respectful engagement , timely updates	No	Nil
23.	Respectful engagement , timely updates	No	Nil
24.	Respectful engagement , timely updates	Yes	Nil
25.	Respectful engagement , timely updates	Yes	Nil
26.	Respectful engagement , timely updates	Yes	Nil
27.	Respectful engagement , timely updates	Yes	Nil
28.	Respectful engagement , timely updates	No	Human Rights Commission
29.	Respectful engagement , timely updates	No	Nil
30.	Respectful engagement , timely updates	No	Nil
31.	Timely updates	Yes	Nil

Victims' rights concern	Charter right in relation to which the concern was raised	Whether the VOCC was able to resolve the concern within 2020–2021 financial year	The entity to which the VOCC referred the concern under s18G(3)
32.	Timely updates	No	Nil
33.	Timely updates	Yes	Nil
34.	Timely updates	Yes	Nil
35.	Respectful engagement , provision of aids and adjustments (see s15A)	Yes	Nil
36.	Respectful engagement , provision of aids and adjustments	Yes	Nil
37.	Respectful engagement , provision of aids and adjustments	Yes	Nil
38.	Respectful engagement , provision of aids and adjustments	Yes	Nil
39.	Respectful engagement , provision of aids and adjustments	No	Nil
40.	Respectful engagement , referral to support services (see s15)	No	Nil
41.	Respectful engagement , privacy (see s14F)	No	Nil
42.	Victim impact statement (see s15F)	No	Nil
43.	Present safety concerns in bail submissions (see s17)	Yes	Nil
44.		Total	43**

\* Some victims' rights concerns were not resolved in the reporting period and are ongoing.

\*\* Some victims raised more than one concern.

## Client advocacy

In addition to advocating for victims' rights under the charter, the VOCC and the rights and reform team continue to advocate for victims of crime more broadly on a wide range of matters. These include:

- appearing in ACAT proceedings to represent the views of affected persons where the offender has been found not guilty by way of mental impairment
- liaising with ACT Policing about concerns regarding delays in investigation
- liaising with courts to obtain information about reparation orders
- liaising with interstate police to advocate for timely referral processes
- advocating for a victim of crime with disability to obtain a police interview
- liaising with the DPP to ensure a victim of crime can understand the reasons for a negative court outcome and to ask questions.

## CASE STUDY

### Helping Jason with information on a serious offence

Jason remembered reporting a serious offence to police many years ago as a young child, but he was never informed about whether the offender was charged. This lack of information continued to impact Jason's mental health as an adult. With limited information about the offender or the circumstances surrounding the offence, Jason asked VSACT to liaise with police on his behalf. Due to the historic nature of the offence, the relevant police records predated electronic storage. With assistance and information provided by VSACT, police were able to manually locate the hard copy records and VSACT assisted Jason to submit a freedom of information application to obtain them.



## CASE STUDY

## Making an informed choice within the justice system

Jiao reported a sexual assault and other violence perpetrated by her ex-husband to police. She did not hear back about the investigation, in breach of her charter right to timely updates. VSACT liaised with police on Jiao's behalf and quickly obtained an update for her. Police offered Jiao a referral to the restorative justice unit (RJU), but Jiao was concerned that this might mean the sexual assault investigation would cease. VSACT liaised with police to confirm that this part of the investigation would continue, and connected Jiao with the RJU. The RJU clarified that in her case, the sexual assault could only be addressed through restorative justice once there had been a guilty verdict or plea. This allowed Jiao to make an informed decision about a possible referral to restorative justice for the other violent offences perpetrated by her ex-husband.

## Policy and law reform projects

In 2020–21, the VOCC provided advice to ACT Government and other agencies about a broad range of issues affecting victims of crime. These issues included those outlined below.

Advice to the ACT Government on:

- the rights of registered affected persons to appear at ACAT proceedings under the *Mental Health Act 2015*
- emergency response measures allowing victims of serious crimes to be tried by judge alone trials in the *Supreme Court Act 1933*
- ACT Corrective Services' Domestic and Family Violence Matters Policy relating to management of Offenders
- the *Mental Health (Secure Facilities) Act 2016* to advocate for secure facilities to take proactive measures to prevent contact by the forensic patient to affected persons
- the ACT's Family Violence Death Review in the *Domestic Violence Agencies Amendment Act 2021*
- victim participation and rights in relation to raising the minimum age of criminal responsibility
- proposed amendments to the *Crimes (Sentencing) Act 2005* for sentencing in family violence matters.

The VOCC also provided:

- advice to the National Redress Scheme Review regarding constricted eligibility of child sexual abuse survivors in the context of health settings; and
- advice to Elizabeth Lee MLA, ACT Liberal leader, on the Crimes (Family Violence) Legislation Amendment Bill 2021 regarding aggravated offences involving family violence.



Victims of Crime Commissioner, Heidi Yates (right) at the launch of new publications to provide better access to justice for older Canberrans and people with a disability, in December 2020, with Emma Davidson MLA (centre) and CEO of Legal Aid ACT, John Boersig (left).

## Boards and committees

The VOCC works closely with a broad range of stakeholders including the ACT Government, justice agencies and community members on a variety of boards and committees to ensure victim rights are upheld. This includes the following.

### Family Violence Intervention Program

The VOCC chairs the Family Violence Intervention Program (FVIP) coordinating committee. The FVIP aims to maximise the safety of family violence victims and ensure a coordinated response to family violence matters that proceed through the criminal justice system. Members include ACT Policing, the DPP, ACT Courts, ACT Corrective Services, Legal Aid, DVCS, CYPs, JACS and the Coordinator-General for Family Safety.

The FVIP case-tracks individual family violence matters weekly, and promotes systemic change through the coordinating committee. In the 2020–21 financial year the coordinating committee collected data on supports provided to interim family violence order applicants and coordinated measures to improve access to supports.

### ***ACT Sexual Assault Steering Committee, Sexual Assault Prevention and Reform Program***

The VOCC worked closely with ACT Government, the opposition and the community sector to establish the new sexual assault prevention and reform program. The program takes a coordinated approach to improve processes and supports for sexual assault victims as they engage with justice agencies, address attrition in sexual offence matters in the criminal justice system and ensure reform encompasses the changing nature of sexual violence.

In its first phase, the program has established working groups focused on sexual assault prevention, response, legislative reform and workplace issues. These working groups will be instrumental in providing recommendations to ACT Government based on the working groups advice.

### ***Victims Advisory Board***

The board supports the ACT Government to promote the rights and interests of victims of crime and consists of government, justice agency and community members.

### ***National Victims of Crime Working Group***

The working group consists of victims of crime commissioners from each state and territory to share learnings and provided coordinated responses to national issues. The VOCC chaired the national working group in the reporting period, up until May 2021.

### ***Domestic Violence Prevention Council***

As the ACT Domestic Violence Project Coordinator, the VOCC contributes to the council's ongoing work to prevent family violence.

### ***Liquor Advisory Board***

The VOCC's participation on the board provides an opportunity to advocate for the rights and interests of victims of crime in the context of preventing and responding to alcohol-fuelled violence.

## Intermediary Program

The ACT Intermediary Program continues to provide intermediaries at police interviews, court matters and at engagements with legal professionals across the ACT. Intermediaries are accredited professionals and independent officers of the court that have been specially trained to facilitate the communication of vulnerable witnesses. This includes very young people, people with a disability and witnesses with other communication difficulties.

Intermediaries provide specialised advice at police investigative interviews, to lawyers and at court to facilitate the giving of evidence by vulnerable witnesses, so they can provide their best evidence.

A recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse, the primary focus of the program was initially referrals relating to child complainants in sexual assault matters and child witnesses to homicide. However, the program has grown in response to requests from police and the court for intermediaries to work with more diverse cohorts of complainants and witnesses. This work includes family violence matters and matters involving adults with communication difficulties

such as acquired brain injuries, cognitive impairment and mental health issues.

The program draws on the expertise of a small number of in-house intermediaries as well as a larger group of 17 panel intermediaries. All intermediaries have undertaken rigorous training to become accredited and come from a diverse range of allied health profession backgrounds including speech pathology, social work, psychology and occupational therapy. Intermediaries are experienced at facilitating the communication of people with:

- language delays
- mental health issues
- learning disabilities
- cognitive issues
- autism
- ADHD
- trauma
- age-related issues
- other types of communication difficulties.



ACT Intermediary Program staff.

Intermediaries can assist people of all ages and have worked with the very young (three years of age) through to elderly adults (over 80 years of age). The communication issues identified for the purposes of a referral do not need to have been formally diagnosed.

In June 2021, the program team delivered its second ACT-specific intermediary training and accreditation course, with the goal of qualifying additional panel intermediaries. Allied health and other suitably qualified professionals undertook the comprehensive training and accreditation process over three days.

The course included extensive pre-reading requirements as well as five assessment components, all of which needed to be passed to achieve accreditation. The training was led by the in-house program team, with the support of SACAT.

Throughout the reporting period, the program team has developed and delivered continuing professional development workshops and courses for all ACT intermediaries, ensuring panel members remain skilled and engaged.

In terms of oversight and governance, the program has continued to be supported and guided by an implementation and monitoring group (IMG). Chaired by the VOCC, the IMG is comprised of senior representatives of ACT law and justice organisations, who can engage expertly on any procedural or practice queries associated with the program's operation. The IMG's oversight ensures that intermediary services remain relevant and attuned to the need of ACT stakeholders.

## Police

Intermediaries are available 24 hours, seven days a week—including on public holidays—to respond to police referrals. Intermediaries provide their communication facilitation services at police stations and, as required, at hospitals, schools, private homes and any other location where police need to conduct an investigative interview.

The program is available to all police locations in the ACT and receives referrals from SACAT and from Belconnen, Tuggeranong, Woden, City and Gungahlin stations.

## Court

Intermediaries continue to be appointed by the courts in Supreme Court and Magistrates Court matters involving vulnerable witnesses and complainants.

As outlined in the data below, most of these matters involve sexual offences. However, intermediaries have also been appointed in family violence matters and civil protection order matters involving young witnesses or adults with communication issues.

Once appointed, intermediaries conduct a communication assessment with the vulnerable witness—always in the presence of a responsible third party—and write an intermediary court report, which includes recommendations as to how the parties should communicate with the witness at court. A pre-trial ground rules hearing is scheduled prior to the questioning of the witness. Here, the court considers the communication needs of the witness, is guided by the report and makes directions as to how the parties are

to communicate with the witness. During questioning at court, the intermediary can intervene, as directed by the court, if a party does not adhere to a direction.

## Lawyers

The ACT is the first Australian jurisdiction to provide intermediary services in the context of meetings between a legal professional and a person with a communication difficulty.

In 2020–21, the program received a total of 11 referrals from solicitors at Legal Aid and the DPP. These referrals related to a range of matters and involved individuals with varied communication needs including acquired brain injuries, mental health issues, Autism Spectrum Disorder and cognitive impairments.

## Highlights

In 2020–21, the Intermediary Program



Matched **100%** of referrals with an intermediary whose skills and expertise fit the needs of the witness

Received



**242** police referrals

Almost **25%** of police referrals were undertaken outside of business hours



**31** court referrals



**11** lawyer referrals

**70%** of referrals were for witnesses 15 years and younger.

**2%** x/other

**52%** of program referrals were for witnesses whose communication difficulties related to age only

**48%** had communication issues including Autism Spectrum Disorder, mental health issues, trauma, language delays and cognitive impairments.

**39%** male

**59%** female

Witnesses referred to us

**57%** of all referrals received by the program related to sexual assault.

The remaining **43%** of referrals related to violent offences including homicide and family violence.

Table 25: Referrals

% of referrals	
<b>Police</b>	
<i>Most police referrals related to complainants, while one referral related to a person of interest.</i>	
Referrals that were evidence-in-chief interviews	88%
Referrals that were meet and greets	12%
Referrals conducted out of hours including on weekends and public holidays	23%
<i>From the out of hours referrals, the average length of engagement is 3 hours.</i>	
Referrals matched with an intermediary with less than 24 hours' notice	60%
Referrals matched within an hour of the scheduled interview time	64%
<b>Demographics</b>	
Referrals that were police interviews involving children aged 15 years and younger	70%
Referrals involving a person who identified as Aboriginal or Torres Strait Islander	7%
Referrals involving a person from a culturally and linguistically diverse background	13%
<b>Communication Issues</b>	
Referrals that involved a person with a communication issue other than age	48%
Referrals that indicated mental health issues and trauma as communication issues	28%

Table 26: Court and legal professional referrals

Number of referrals	
Supreme Court matter requests	15
Magistrates Court matter requests	12
Legal professional referrals	11
Requests made relating to complainants and witnesses, while two referrals related to accused (both were legal professional referrals)	40
Referrals related to sexual assault	19
Referrals related to family violence or other violent offences	23
Court and lawyer referrals identified mental health issues and trauma as communication issues.	69%

## CASE STUDY

### Supporting a client with an acquired brain injury

The program received a request from Legal Aid in relation to a 67-year-old male, GS. GS had a matter before the court related to alleged physical assaults made upon a fellow resident at his assisted-living accommodation.

GS had an acquired brain injury and other difficulties related to communication. GS had a guardianship arrangement in place and was in the process of having an additional litigation guardian appointed due to GS's difficulty understanding the court process.

An intermediary with skills and expertise that matched GS's communication needs advised the Legal Aid solicitor on strategies that would assist GS's communication; and on how the solicitor could explain the difference between an undertaking and an order made by the court, and the consequences of not adhering to these.

With the intermediary's involvement, the solicitor was able to effectively communicate advice and take instructions from GS. This meant GS did not need a litigation guardian

appointed and, more importantly, was able to provide clear legal instructions.

ACT Legal Aid provided the following feedback to the program at the conclusion of the matter:

'I just wanted to share some feedback on how the program is making such a difference. I attended court this morning and GS was ruminating over a couple of concepts that he was having difficulty understanding and/or remembering. I used some of the techniques that the intermediary had used during their assessment which helped.

'As I was leaving, GS's appointed guardian commented on the immense difference having intermediary support made to how this matter is being managed. Without the intermediary, it was more than likely that a litigation guardian would have been appointed. This type of guardianship could have been in place for 3 years and is best avoided if it is not needed. With the intermediary's involvement, GS was able to effectively participate and make decisions such that no litigation guardian was required.'



## CASE STUDY

### Complainant in alleged sexual assault supported during police interview

A 19-year-old witness, DL, had participated in two police interviews without an intermediary. DL's communication needs related to significant trauma, mental health and a physical health condition. After the first two interviews without intermediary engagement, DL experienced significant trauma-related responses culminating in an extended hospital admission after completion of a second police interview.

The program was contacted by SACAT to request an intermediary for a third scheduled interview with DL.

The intermediary conducted a communication assessment with DL, during which they made observations regarding the impact of DL's communication needs. The intermediary observed DL needed frequent breaks, but would not request them verbally. The intermediary also observed that DL's breathing became shallow when impacted by stress and anxiety.

Prior to the evidence-in-chief interview, the interviewing officer sought the intermediary's advice regarding which proposed wording would best accommodate DL's communication

needs. The intermediary made suggestions around the tense used in questions, which could impact on DL's emotional regulation during the interview. The intermediary also recommended breaks at regular intervals.

To further meet DL's communication needs, the intermediary developed a communication aid to remind DL to breathe during the interview. The aid was visible on camera and the intermediary was able to point to it when DL's breathing was becoming shallow, as a reminder to DL to focus on their breathing.

With the intermediary's involvement, DL participated in two interviews with police over two days. This approach accommodated DL's need for frequent breaks and a slower pace of questioning.

DL spoke to the interviewing officer after the final police interview and indicated that the intermediary's strategies were helpful in keeping DL focused and in control of their trauma and stress responses.

## CASE STUDY

### Helping police communicate with a child

BA, a young Aboriginal witness, had previously been reluctant to engage with ACT Policing due to discomfort with strangers and difficulty speaking about the alleged offence.

The program was contacted by SACAT to attend BA's school where they were to undertake an evidence-in-chief interview. Other stakeholders present at the interview reiterated BA's previous reluctance to engage.

During the communication assessment, the intermediary observed that BA appeared reserved, and initially only gave one-word responses and used non-verbal gestures, looking down or shaking their head. However, during the assessment, BA told the intermediary that they had recently participated in cultural ceremonies.

The intermediary invited BA to join in a game along with the interviewing officer. While focusing on the game, BA provided a detailed narrative of the cultural ceremony,

along with other community events BA had previously taken part in.

During this process, the intermediary was able to establish how BA best communicated, including BA's ability to establish a timeline, comprehension of prepositions and what, where and when questions along with ability to sequence events in chronological order.

The intermediary made other recommendations for BA including the set-up of the room—with chairs side-by-side to avoid prolonged eye-contact—and allowing silent gaps before asking the next question. These were all implemented by the interviewing officer.

At the completion of the communication assessment, BA agreed to participate in the evidence-in-chief interview, having built enough rapport to stay engaged with the interviewing officer for the duration of the interview.



# Public Advocate and Children and Young People Commissioner

The Public Advocate and the Children and Young People Commissioner (PACYPC) are two separate statutory roles held by a single officeholder. The PACYPC has a range of functions including but not limited to:

- advocating for children, young people and adults in the ACT whose condition or situation makes them potentially vulnerable to abuse and exploitation
- monitoring and fostering the provision of services for persons experiencing vulnerability
- overseeing systems that support and respond to the needs of persons experiencing vulnerability
- engaging with and listening to children and young people to ensure their voices are heard on issues that affect them
- improving services for all children and young people.

## Leading positive systemic change

Although the functions of the Public Advocate (PA) and the Children and Young People Commissioner (CYPC) are separately legislated, in practice it is difficult to separate the performance of these functions within the context of leading positive systemic change, so these are presented jointly below.

### Systemic advocacy

#### Minimum age of criminal responsibility

Throughout 2020–21, the PACYPC continued to advocate to raise the minimum age of criminal responsibility. Pleasingly, the ACT Government committed to raising the age as part of its election commitments, and work is underway to explore the legislative and service system changes required to give effect to this commitment.

The PACYPC worked alongside the many local agencies that support this reform to shape the direction of the various legislative, policy, systems and service design elements that require careful consideration to ensure improved outcomes for children and young people. Research and systemic advocacy undertaken by the PACYPC in previous years has provided a solid foundation from which to contribute to the ACT Government's deliberations about this reform, as well as to the reviews that are underway to scope the changes that will be needed.

In addition to these contributions, the PACYPC also participated in a panel discussion on 12 May 2021 as part of the Australian Lawyers for Human Rights Law Week celebrations.

#### External merits review of child protection decisions

On 22 July 2020, the PACYPC, together with the Community Services Directorate (CSD), co-hosted an online roundtable centred on external merits review of child protection decision-making in the ACT. The PACYPC drew on her connections in Queensland and Victoria to bring together a range of speakers with experience

in different areas of child protection decision-making. Local attendees appreciated the opportunity to hear about how external merits review can generate improvements to the child protection system, including by providing those involved (whether personally or professionally) with the opportunity to interrogate decisions and ensure they take account of all relevant and available information.

The PACYPC co-hosted a second roundtable on 17 September 2020. This roundtable built on the previous one by exploring in more depth what an external merits review process would encompass, and the types of mechanisms that would give best effect to the independence of this process from operational decision-making, while still being sufficiently cognisant of internal review processes.

#### Residential aged care—wellbeing clinic pilot

A review of individual disability advocacy matters that have come to the PA's attention over the last few reporting periods revealed a systemic gap in the mental health, allied health and clinical health supports available to older people in residential aged care facilities.

In response, the PA is collaborating with the ACT Disability, Aged and Carer Advocacy Service to develop a pilot program that establishes wellbeing clinics in four residential aged care facilities in the ACT. The pilot is inspired by the success of Swinburne University's Wellbeing Clinic in residential aged care in Victoria, which utilises postgraduate and final-year students (in psychology, social work etc) to run the clinics.

During the 2020–21 reporting period, the PA undertook preliminary research on the viability of the pilot in the ACT and consulted with a wide number of key stakeholders. Both the School of Social Work (Australian Catholic University) and the School of Occupational Therapy (University of Canberra) have indicated their interest in being involved. The design and development of the pilot will be included as an action in the Re-envisioning Older Persons Mental Health and Wellbeing Strategy.

## Boards and committees

In 2020–21, the PACYPC held membership on numerous boards and committees with responsibility for effecting policy development and/or systemic reform. The PACYPC's contribution to these discussions focused on ensuring appropriate regard for human rights and furthering systemic change to facilitate improved outcomes for persons experiencing vulnerability.

The PACYPC participated in the following boards and committees:

- ACT Children and Young People Death Review Committee
- ACT Human Rights Commission Cultural Safety Reference Group
- Australia and New Zealand Children's Commissioners and Guardians (ANZCCG)
- Australian Guardianship and Administration Council
- Children and Young People's Mental Health Community of Practice
- Children and Young People Oversight Agencies Group (Chair)
- Children and Young People's Participation Reference Group
- Countering Violent Extremism Steering Committee
- Department of Defence Joint Cadet Executive Board
- Department of Defence Youth Safe Advisory Board
- Disability Justice Reference Group
- Domestic and Family Violence Expert Reference Group
- Elder Abuse Prevention Network
- Family Violence Interagency Committee
- Functional Family Therapy Evaluation Steering Committee
- Integrated Services Response Governance Group
- Inter-Directorate Committee for Mental Health and Wellbeing
- Litter Act Code of Practice Working Group
- Mental Health Inter-Directorate Committee for Mental Health and Wellbeing
- National Coalition on Child Safety and Wellbeing
- Office for LGBTIQ+ Affairs Inter-Directorate Working Group
- Office of Mental Health and Wellbeing Co-Design Working Group for Moderate-Severe Mental Illness
- Official Visitor Board
- Playgroup Australia National Advisory Group
- Royal Commission Working Group.

## Consultation and submissions

The PACYPC provided advice and comment on a range of issues in 2020–21, including by tendering independent submissions to the following:

- Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability: issues paper—Violence and abuse of people with disability at home
- Legislative Assembly Standing Committee on Health and Community Wellbeing: inquiry into ACT health programs for children and young people
- House of Representatives Standing Committee on Social Policy and Legal Affairs: inquiry into family, domestic and sexual violence.

The PACYPC also contributed to numerous Cabinet submissions and led or contributed to the development of submissions jointly tendered by the Commission.



Public Advocate and Children and Young People Commissioner, Jodie Griffiths-Cook (left) with colleagues during a tour on country led by Ngunnawal elder Richie Allan.

## Public Advocate

### Statutory public advocacy

Statutory public advocacy seeks to ensure that services and systems do what they are supposed to do in the way they are supposed to do it, and ideally in a timely and responsive manner. This involves the PA undertaking specific legislative functions to provide a person-centred, robust, preventative and comprehensive system of independent oversight for vulnerable cohorts in the ACT.

The PA's oversight applies a combination of activities: individual advocacy; systemic advocacy and review; investigations and reviews; inspections and visits; compliance monitoring; participation and engagement; and service development and improvement.

The PA provides services across three portfolio areas:

- children and young people
- mental health and forensic mental health
- complex needs/disability, including protection matters.

### Key performance indicators

During the 2020–21 reporting period, 2,537 people were brought to the PA's attention. Many were identified through documentation that, by law, must be provided as part of the PA's statutory oversight and compliance monitoring of child protection, mental health and forensic mental health systems. Others were referred due to their vulnerability or made direct requests for advocacy.

In 2020–21, direct advocacy was provided for 938 people (37 per cent of those brought to the attention of the PA), and documentation reviews were undertaken for 1,622 people (64 per cent). Performance in 2020–21 was impacted by the sustained high number of compliance documents received by the PA, particularly in the mental health/forensic mental health portfolio, and an increased number of matters requiring PA intervention.

**Table 27: Comparison of Public Advocate key performance indicators over past five reporting periods**

	2016–17	2017–18	2018–19	2019–20	2020–21
Number of persons brought to PA attention	2,207	2,136	2,078	2,254	2,537
Number provided with direct advocacy	773 (35%)	645 (30%)	513 (25%)	493 (22%)	938 (37%)
Number for whom documents were reviewed	1,854 (84%)	1,752 (82%)	1,330 (64%)	1,285 (57%)	1,622 (64%)

Of the 11,750 compliance documents received by the PA in 2020–21, 7,034 (60 per cent) related to mental health/forensic mental health consumers and 4,218 (36 per cent) related to children and young people (primarily those in care and/or involved with the youth justice system).

**Table 28: Breakdown of Public Advocate activity by portfolio**

Portfolio	Number of persons brought to the attention of the PA by portfolio	Compliance documents received	Number (and percentage) of persons provided with direct advocacy	Number (and percentage) of persons for whom documents were reviewed
Children and young people	1,051	4,218	331 (33%)	622 (62%)
Complex needs/disability	278	498	234 (84%)	220 (79%)
Mental health/forensic mental health	1,318	7,034	435 (33%)	843 (64%)

Please note: Some persons are brought to the attention of the PA across multiple portfolio areas, so the sum of the numbers in the table does not equate to the PA's key performance indicators.

Notably, the demand for public advocacy for mental health/forensic mental health consumers remains at a sustained high level when compared with 2019–20. In the 2020–21 reporting period, the PA received 7,034 compliance documents for 1,318 mental health/forensic mental health consumers.

This sustained demand compares starkly with the demand in 2018–19, when the PA only received 5,705 notifications for 1,087 people. Further, although the number of notifications decreased slightly when compared with the last reporting period, the overall number of unique persons brought to the PA's attention continues to rise, with 570

people (43 per cent) having been brought to the attention of the PA for the first time in 2020–21. It is not clear at this stage whether this proportion of new clients is an anomaly or whether this will continue as an upward trend of new referrals into the mental health system.

Unfortunately, despite the significant growth in demand for this portfolio, there has been no commensurate increase in resources since an additional full-time equivalent position was secured in 2015–16 in response to the introduction of the *Mental Health Act 2015* (MH Act). Demand therefore remains a significant resourcing challenge for the PA.

**Table 29: Demand for the mental health/forensic mental health portfolio over the past five reporting periods**

	2016–17	2017–18	2018–19	2019–20	2020–21
Number of persons	1,140	1,073	1,087	1,233	1,318
Number of notifications	5,434	5,448	5,705	7,179	7,034
Average notifications per person	4.77	5.08	5.25	5.82	5.34

In 2020–21, the PA undertook two stakeholder satisfaction surveys with a combined overall satisfaction rating of 63 per cent. Unfortunately, in 2020–21, only one response was received from a significant person associated with a client, and no client responses were received at all.

This result therefore reflects the views of service providers and community stakeholders with whom the PA engaged in advocating on behalf of clients. It should be noted that when the 'somewhat satisfied' data is included, the overall satisfaction rating increases to 92 per cent.

## Public Advocate—children and young people

### Delivering accessible services that empower and support people

#### Individual advocacy

Children and young people usually come to the attention of the PA through documentation received in accordance with statutory reporting requirements in the *Children and Young People Act 2008* (CYP Act). Where a review of documentation indicates a need for intervention, the PA then initiates an advocacy response. The PA also acts in response to issues raised by community members and other stakeholders.

In 2020–21, 1,051 children and young people were brought to the PA's attention, with documentation reviews undertaken for 622. Overall, the PA provided 4,722 occasions of advocacy, including 1,815 occasions of direct advocacy for 331 children and young people.

Individual advocacy was provided in response to a range of issues impacting the rights, protection and participation of children and young people, including:

- ensuring discharge meetings for young people involuntarily detained through the mental health system to enable continuity of care

- upholding the right of children and young people to education and accessible support services
- advocating for children and young people's views to be considered in decision-making (including decisions about contact with family for those in out of home care, and everyday decisions such as about shopping and meal planning, for those in residential care)
- improving safety and standards of care for children and young people in out of home care
- enabling continued case management support for young people who exited care.

The PA's advocacy in respect of such matters typically draws attention to the rights of children and young people so these considerations are appropriately upheld in decision-making.

## CASE STUDY

### Least restrictive alternatives

The PA was advised about a young person's (YP's) mental health circumstances, including an application being considered by the ACT Civil and Administrative Tribunal (ACAT) for an assessment order and potentially invasive treatment(s) involving hospitalisation in the Adult Mental Health Unit (AMHU).

The PA was particularly concerned about YP's lack of participation in the decision-making process and them not having had the opportunity to have their views and wishes heard in respect of how they would want any treatment or assessment carried out.

During the ACAT hearing, the PA raised concerns about the application, proposed process and potential for significant distress, and requested that alternative options be considered. ACAT agreed and requested the PA convene a meeting of relevant parties, with YP participating either from the family home or via telephone.

With input from YP and key support people, the agreed actions were completed, and the psychiatrist conducted a voluntary assessment by convening a home visit to assess YP in their home environment. The case conference and planned engagement provided ACAT an alternative to an AMHU admission and an order was not sought.

### Individual advocacy— Bimberi Youth Justice Centre

The PA maintains a regular presence at the Bimberi Youth Justice Centre (Bimberi) to ensure appropriate regard for the human rights of young detainees.

In 2020–21, the PA advocated for young people in Bimberi across a range of matters including:

- human rights complaints on behalf of young people
- concerns about transition/exit plans back to community
- allegations that staff used inappropriate language towards young people
- young people's health concerns not being satisfactorily dealt with
- parents advising they were not getting adequate information about their child's behaviour.

The Director of Bimberi investigated each of the issues raised by the PA. With the young person's permission, the director met with the PA and the young person to address their concerns directly. Matters requiring a response from Forensic Mental Health Services were also responded to promptly.

### Court attendance

In the 2020–21 reporting period, the PA attended court on 43 occasions in relation to emergency action and other care and protection matters.

The PA's attendance at court supports the performance of its oversight functions and provides the opportunity to ensure due consideration for the rights, protection and participation of children and young people.

### Providing effective oversight

The PA uses a range of mechanisms to achieve its oversight functions. In addition to the activities detailed below, the following forums support the PA's oversight:

- Children and Young People Oversight Agencies Group (bimonthly)
- Bimberi Oversight Group (bimonthly)
- ACT Together (senior managers) and PA liaison meeting (bimonthly)
- High Risk meeting (monthly)
- Transition Panel (monthly)
- Uniting and PA meeting (monthly)
- Official Visitors and PA meeting (monthly)
- Child and Youth Protection Services (CYPs) and PA liaison meeting (monthly or as needed)
- Bimberi Client Services Meeting (weekly)
- Recurring Care Team meetings (weekly or as needed)
- Murrumbidgee Education and Training Centre (METC) and PA meeting at Bimberi (as needed).

### Oversight and monitoring of Bimberi Youth Justice Centre

#### Inspection of registers

The PA has a statutory responsibility to review and inspect the registers of searches and use of force at least once every three months. This reporting period has seen the introduction of a new database in both the Commission and CSD. The PA works closely with Bimberi and the CSD data team to ensure that their database captures the information needed by the PA to give effect to its oversight functions.

#### Use of segregation

In 2020–21, there were 17 segregation directions issued (contrasting with 36 in 2019–20 and reflecting a 47 per cent decrease). Of these, 11 were health-related and six were for safety and security reasons.

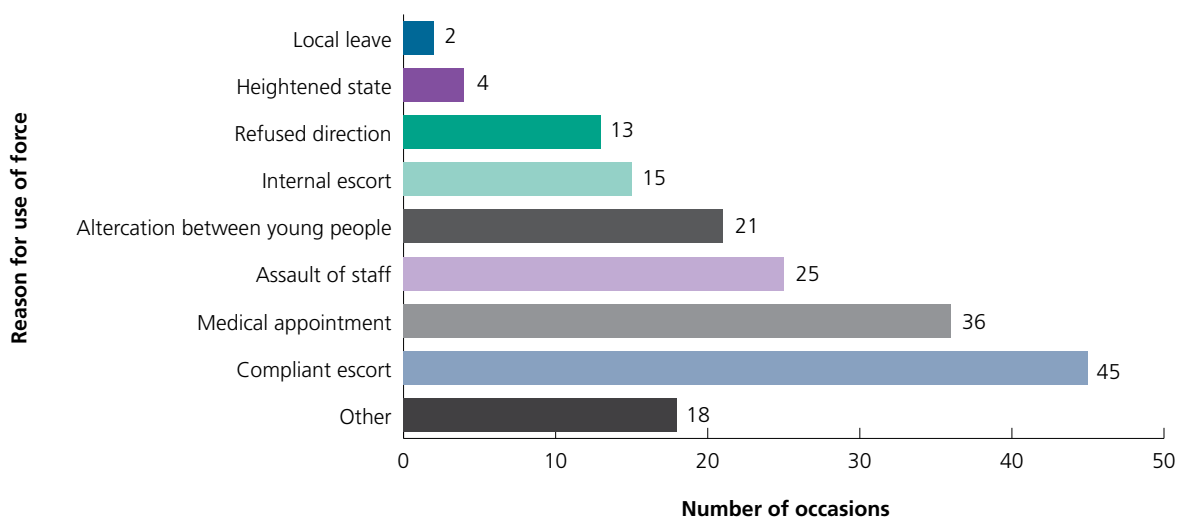
### Use of lockdown

In 2019–20, the PA raised significant concerns about the use of lockdown, which saw young people locked in their cabins for extended periods each month. The PA is pleased to report a significant improvement during this reporting period with a total of only 10 lockdowns, each for a period of only one hour.

### Use of force

In 2020–21, there were 179 occasions when force was used. This is a 26 per cent decrease from 2019–20 and may relate to increased staffing from Bimberi's recruitment drive.

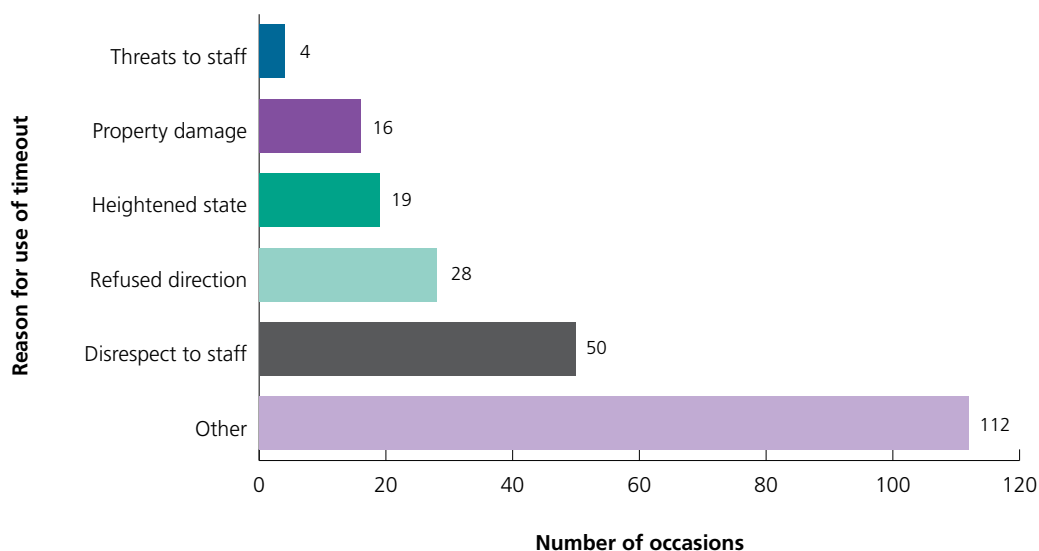
Figure 6: Reason for use of force (2020–21)



### Use of timeout

In 2020–21, there were 229 occasions of timeout used at Bimberi, a 36 per cent decrease from 2019–20 but still well above the levels reported by the Commission in its 2019 report. The 'Other' category primarily relates to the subcategories of 'reset' and 'circuit breaker' that were introduced part-way through the reporting period.

Figure 7: Reason for use of timeout (2020–21)

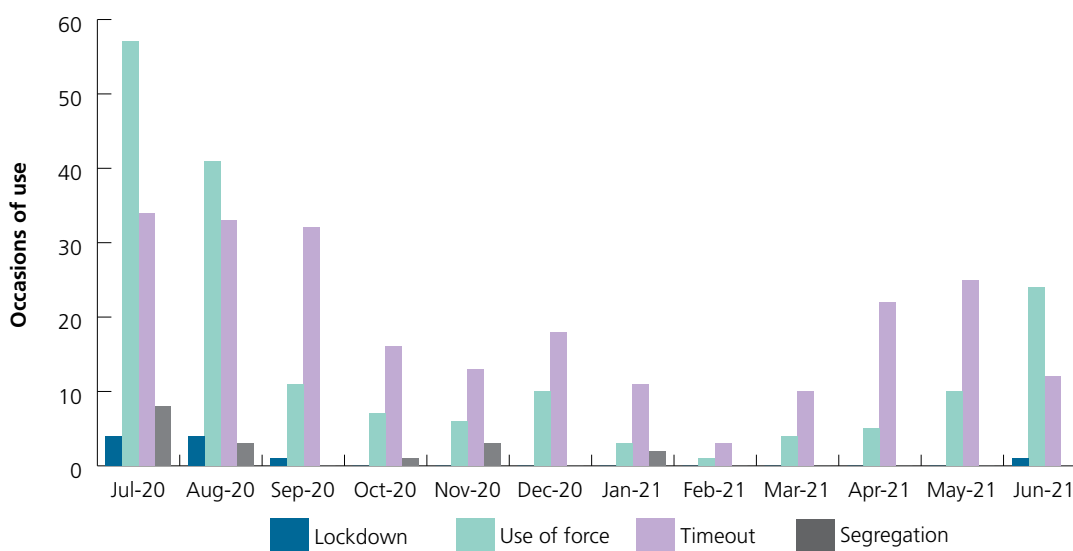




### Comparative practice analysis

Throughout this period there has been a significant decrease in the use of restrictive practices in Bimberi. There have only been 10 occasions of lockdown (covering staff lunches) for the whole reporting period (10 hours in total); a 26 per cent decrease in the use of force; a 36 per cent decrease in the use of timeout; and a 47 per cent decrease in the use of segregation.

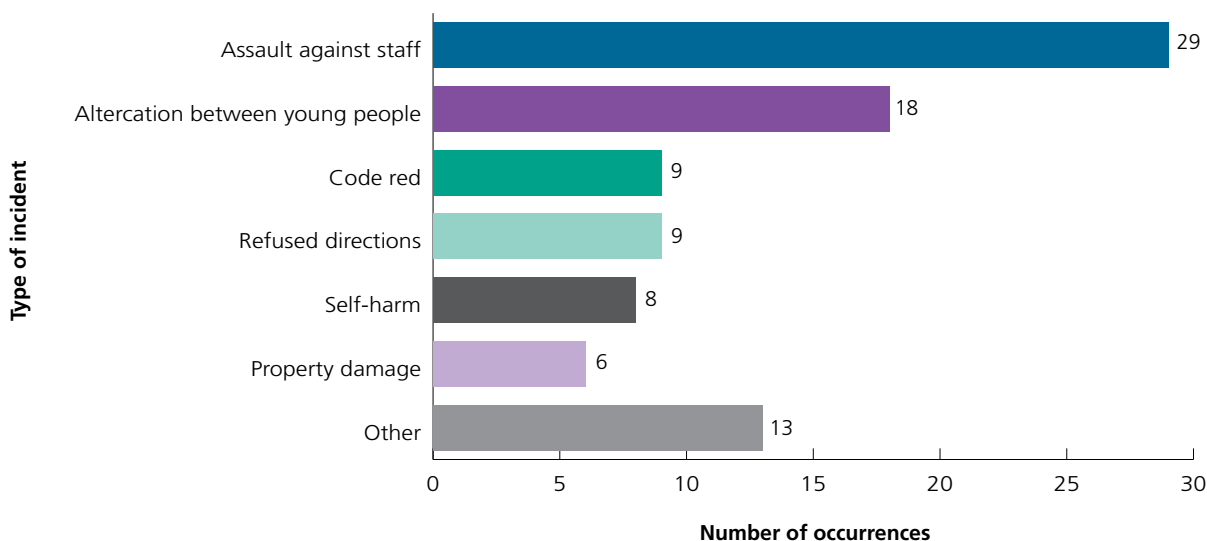
Figure 8: Use of lockdown, force, timeout, segregation (2020–21)



### Critical incidents

There were 92 critical incidents reviewed in the incidents register.

Figure 9: Incidents register (2020–21)



### Strip searches

In 2020–21, five strip searches were undertaken with no contraband found.

## Oversight and monitoring of child protection services

### Emergency action (section 408 reports)

In accordance with section 408 of the CYP Act, the PA receives notifications from CYPS about all emergency action taken to remove a child or young person from their family's care. During this reporting period, the PA received notifications of emergency action taken in relation to 86 children and young people and attended court for 50 per cent of the initial hearings.

Table 30: Reasons for emergency action (2020–21)

Reasons for emergency action	2019–20	2020–21
Substance abuse	45	46
Family violence	38	21
Neglect	36	35
Mental health	26	25
Physical abuse	5	16
Emotional abuse	4	4
Emergency action revoked	1	2
Sexual abuse	0	3
Other	0	5

Please note: Some instances of emergency action involve multiple reasons.

### Allegations of abuse in care (section 507 reports)

Under section 507 of the CYP Act, the PA must be notified when CYPS undertakes an appraisal of an abuse in care allegation for a child or young person. In 2020–21, the PA received 45 notifications, 31 per cent of which were substantiated.

Table 31: Section 507 notifications to the Public Advocate (2017–18 to 2020–21)

	2016–17		2017–18		2018–19		2019–20		2020–21	
Timeframe within which PA is notified	Total	Substantiated	Total	Substantiated	Total	Substantiated	Total	Substantiated	Total	Substantiated
<3 months	18	0	13	0	35	1	10	4	13	3
3–6 months	35	3	40	3	39	11	31	11	25	11
7–9 months	10	1	6	0	0	0	6	2	3	0
10–12 months	0	0	9	0	0	0	0	0	0	0
1–2 years	0	0	5	0	0	0	0	0	0	0
3+ years	0	0	1	1	0	0	0	0	4	0
<b>Total</b>	<b>63</b>	<b>4 (6%)</b>	<b>74</b>	<b>4 (5%)</b>	<b>74</b>	<b>12 (16%)</b>	<b>47</b>	<b>17 (36%)</b>	<b>45</b>	<b>14 (31%)</b>

Consistent with past reporting periods, the largest number of reports in 2020–21 related to children in kinship placements (66 per cent). This trend was flagged in the PA's 2018–19 annual report as requiring further investigation to ensure appropriate assessment of, and support for, kinship carers. The initial findings of this systemic review are detailed below.

Table 32: Section 507 notifications by placement type over the last four reporting periods (2017–18 to 2020–21)

Care arrangement type	2017–18	2018–19	2019–20	2020–21
Total number of s507 notifications	74	74	47	45
Kinship care	55%	61%	75%	66%
Foster care	26%	26%	15%	26%
Residential care	14%	12%	6%	6%
Other	5%	1%	2%	0%

## Kinship Care Systemic Review—Initial findings

This review originated from an analysis of section 507 reports the PA received over the three reporting periods from 2017–18 to 2019–20 (see Table 32 above), which highlighted kinship placements as consistently having the highest percentage of abuse in care concerns appraised by the Director-General. The PA's initial analysis raised questions about whether the assessment processes and the supports being provided to kinship carers were adequate.

The review was limited to kinship carers supported by CYPS who were caring for children:

- a) on final orders, two years or under (or longer if still case managed by CSD)
- b) on interim orders
- c) on Voluntary Care Arrangements (VCAs)
- d) not on any statutory orders or VCAs.

The initial request for information was sent on 10 February 2020, requesting a response within 21 days.

However, due to operational challenges within CSD, and the challenges associated with the onset of the COVID pandemic, the PA agreed to a staged response, with information received in four stages:

- 1) Stage 1 on 19 June 2020
- 2) Stage 2 on 25 June 2020
- 3) Stage 3 on 10 July 2020
- 4) Stage 4 on 16 December 2020.

Following an initial review of the information, the PA sought clarification on some inconsistencies and gaps and received updated information on 1 February 2021.

The information provided covered the period from 2013 to 2020 and identified 121 children and young people and 125 carers (living in 82 households) as being within scope of the review.

Over the review period, 35 per cent of children and young people were living in placements where the carer(s) had not had Comprehensive Kinship Assessments (CKA) completed. This amounted to 45 per cent of carers with no completed CKA (see Table 33 below).

**Table 33: Comprehensive Kinship Assessments not completed**

Placement year	Children and young people	Households	Carers without completed CKA	Children and young people in households with no completed CKA
2013	2	2	2	1
2014	1	1	0	0
2015	11	5	2	1
2016	8	7	0	0
2017	23	12	4	8
2018	18	13	5	4
2019	44	30	29	17
2020	14	12	14	11
<b>Total</b>	<b>121</b>	<b>82</b>	<b>56</b>	<b>42</b>

This raises significant concerns about how the supports and needs of the children and young people and their carers were being assessed and met in the absence of any CKA, or where there were significant delays in completing these assessments.

In addition to the number for whom no CKA had been completed, Table 34 below highlights the time that elapsed from when a child or young person was placed with kinship carers until a CKA was completed.

**Table 34: Length of time child or young person in placement prior to completion of Comprehensive Kinship Assessment**

Placement year	CKA complete prior to placement	0–3 months	4–6 months	7–12 months	13–24 months	25–36 months	3–5 years	No CKA	Total
2013	1	0	0	0	0	0	0	1	2
2014	0	0	0	1	0	0	0	0	1
2015	0	2	0	0	3	0	5	1	11
2016	0	1	2	0	2	3	0	0	8
2017	4	1	1	3	5	1	0	8	23
2018	3	2	0	6	3	0	0	4	18
2019	5	4	5	8	5	0	0	17	44
2020	0	1	1	1	0	0	0	11	14
<b>Total</b>	<b>13 (11%)</b>	<b>11 (9%)</b>	<b>9 (7%)</b>	<b>19 (16%)</b>	<b>18 (15%)</b>	<b>4 (3%)</b>	<b>5 (4%)</b>	<b>42 (35%)</b>	<b>121</b>

As Table 34 shows, for those children and young people whose carers had a completed CKA:

- five (4 per cent) had been in placements between 3 and 5 years
- four (3 per cent) between 2 and 3 years
- 18 (15 per cent) between 1 and 2 years.

Altogether, this amounts to 69 children and young people (57 per cent) in placements where either their carers had not been assessed at all or there was a time lapse of more than 12 months from the point of placement to the conclusion of a CKA. Further, an additional 19 children and young people (16 per cent) were in placements for over six months before the CKA was completed.

These figures raise concerns about whether adequate attention is being given to the supports that kinship carers may require to adequately meet the needs of the children and young people in their care. Equally, not undertaking timely assessments of whether children and young people with particularly complex needs can be adequately supported by the carers with whom they have been placed can have a significant impact on carers themselves.

While it is not possible to draw a direct link between the high number of abuse in care appraisals carried out in kinship placements and the lack of or delay in completion of CKAs, it does raise questions about the potential level of strain that kinship carers might be under in the absence of these assessments. Further, the lack of or delay in

CKAs means that a significant proportion of kinship carers are not being accorded the opportunity to identify their strengths, and areas of concern that may require additional supports to assist them in meeting the needs of the children and young people placed in their care.

These findings also raise concerns about what appears to be the lack of any legislative or procedural guidance in respect of appropriate timeframes within which these critical assessments should be completed. Under the Kinship Carer Approval procedures, it states:

*Comprehensive kinship carer assessments are to be undertaken as soon as practicable to gather additional information and confirm the initial suitability information. (page 4)*

While preliminary suitability information is obtained through the Initial Kinship Carer Assessment to enable carer approval and the placement of a child/young person with kinship carers, if the CKA is the process for confirming the initial suitability information and is not completed, or there is a significant delay in completing it, this compromises confidence in the initial assessment and may present risks to the safety and wellbeing of children and young people, and/or to that of the carers themselves.

### PA investigations (section 879 requests)

Under section 879 of the CYP Act, the PA may ask for information and documents in relation to the physical and emotional welfare of children and young people to enable investigation of concerns.

In the 2020–21 reporting period, the PA made 33 section 879 requests relating to 54 children and young people, and three systemic investigations.

**Table 35: Reasons for the Public Advocate undertaking section 879 investigations**

Reason	Number of children and young people	Percentage*
Matters relating to kinship care	17	32%
Parental neglect	10	19%
Youth homelessness/mental health	6	11%
Parental dispute/Family Law Court matter	5	9%
Residential placement decisions	5	9%
Placement decisions	3	6%
Concerns about sexual abuse	2	4%
Other	6	11%
Total	54	–

\* Percentages are rounded to the nearest whole number.

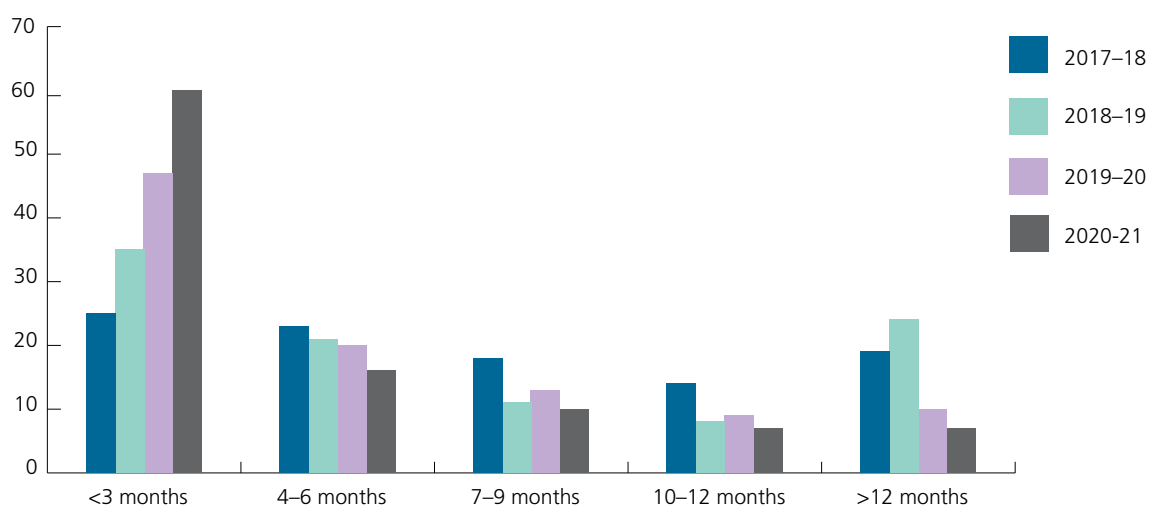
### Annual review reports (section 497 reports)

Section 495 of the CYP Act requires the Director-General to prepare an annual review report (ARR) for all children and young people under a reviewable care and protection order. Under section 497, a copy of every ARR must be provided to the PA.

### Annual review report timeframes

During 2020–21, the PA received 1,012 ARR from CYPS and ACT Together. The timeframes for receipt of ARRs by the PA has improved from previous reporting periods, with 60 per cent of reports provided in less than three months post-completion.

**Figure 10: Timeframes for receipt of annual review reports in the past four reporting periods (2017–18 to 2020–21)**



## Annual review report quality review framework

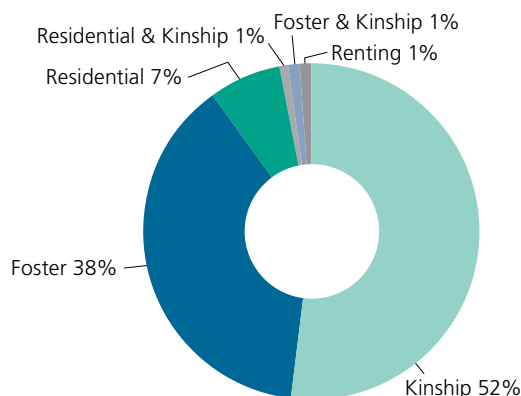
In the 2020–21 reporting period, the PA continued to use the quality review framework to monitor ARR compliance. ARR should provide an accurate child-centred account of the child's or young person's life in care, outlining their circumstances and living arrangements, including whether existing arrangements support their best interests. A representative sample of ARRs are selected for review each year.

### Demographics

Of the 130 ARRs reviewed:

- 85 per cent were for children and young people case managed by ACT Together, and 15 per cent were case managed by CYPs.
- 50 per cent were for Aboriginal and Torres Strait Islander children and 29 per cent were for children and young people from culturally and linguistically diverse backgrounds.
- 52 per cent of children and young people were residing in kinship care, 38 per cent in foster care, 7 per cent in residential placements, 1 per cent were 'renting', 1 per cent resided across foster and kinship placements and a further 1 per cent had been in a combination of kinship and residential placements. Those who were 'self-placing' represented under 1 per cent of those reviewed.

**Figure 11: Proportion of children in out of home care by placement type**



Note: Those who had self-placed and those in a combination of kinship and self-placement are not captured above as they represent less than 1 per cent of annual review reports reviewed.

## Findings

The review of ARRs found the following:

- A cultural plan was completed for 84 per cent of Aboriginal and Torres Strait Islander children and young people and 22 per cent of children and young people from culturally and linguistically diverse backgrounds.
- Case managers consulted 73 per cent of children and young people in preparing their ARR. Of the 27 per cent not consulted, 51 per cent were cited as being too young to participate, and no reason was given for not consulting the other 49 per cent. In 11 instances, the ARR stated that children and young people had been consulted, but the reports indicated their views were not provided through direct participation.
- Case managers indicated they sought the views of children and young people most often through observations and home visits. The survey program ViewPoint was used for 4 per cent of ARRs. On two occasions, the use of ViewPoint was specifically declined.
- Consent from the child or young person to share the report with others was documented in 4 per cent of ARRs. While consent may have been provided verbally in other cases, improvements are required to ensure consent is always documented.
- The majority of ARRs are written in a way that is non-judgemental, child-focused and strength-based and many reports included information about broader wellbeing such as development, social relationships and involvement in community. However, greater emphasis could be placed on using other age-appropriate methods or templates to engage children and young people and consulting with family, significant others and community leaders and/or Elders. This could further assist in gathering a better sense of how relationships could be strengthened and in undertaking reflective life story work.
- The PA notes there are ongoing significant gaps in ARRs including a consistent lack of information about whether supporting documentation had been completed, particularly in relation to each child's understanding of their unique background, therapeutic safety plans, risk management and child-at-risk plans. While this information may not be necessary for all children and young people, where warranted it supports a more holistic understanding of their experience in care and life story.



### Review of out of home care residential placement Critical Incident Reports

Across 2020–21, the PA undertook a systemic review of Critical Incident Reports (CIRs) in residential care. The review covered a six-month period and involved an in-depth review of 832 CIRs involving 854 incidents. The initial findings raise significant concerns about the current model of care and suggest a need for improvements to ensure children and young people are cared for in a safe, therapeutic and nurturing way.

Table 36 below illustrates that 48 per cent of incidents involved young people missing from placement, 17 per cent involved intentional residential damage, 17 per cent involved young people refusing prescribed medication and 14 per cent involved young people self-harming. It is noteworthy that 26 per cent of these incidents required outside intervention from the Police, Ambulance & Clinician Early Response (PACER) team, Emergency Services Agency (ESA) and/or the Australian Federal Police (AFP).

It is particularly alarming that 5 per cent of incidents involved the sexual exploitation of children and young people.

**Table 36: Predominant recorded Residential Critical Incident Report incidents (July–December 2020)**

Categories of incidents	Jul	Aug	Sept	Oct	Nov	Dec	Number of incidents	Percentage*
Missing from placement	70	101	60	81	49	48	409	48%
Intentional property damage	20	21	27	29	20	28	145	17%
Refusing prescribed medication	61	37	10	9	13	12	142	17%
Self-harming	16	11	18	32	19	22	118	14%
Being sexually exploited	7	10	9	4	6	4	40	5%
<b>Total</b>	<b>174</b>	<b>180</b>	<b>124</b>	<b>155</b>	<b>107</b>	<b>114</b>	<b>854</b>	<b>–</b>
PACER/ESA/AFP intervention	31	39	29	60	29	35	223	26%

\* Percentages are rounded to the nearest whole number.

In addition to the concerns raised in the systemic analysis of CIRs, the PA continues to monitor individual cases and consistently raises concerns about the ability of the current model to provide an adequate standard of care for the children and young people who reside there, particularly in view of them having been impacted by trauma and instability, and the fact that many have disability, mental health concerns and/or a range of other developmental needs.

## Public Advocate—mental health and forensic mental health

Delivering accessible services that empower and support people

### Individual advocacy

In the 2020–21 reporting period, 1,318 people with mental health concerns were brought to the attention of the PA through contact from consumers, carers and health professionals, site visits by advocates and mental health compliance documentation provided to the PA under the requirements of the MH Act.

The issues that are regularly raised with the PA include concerns about the type of mental health treatment received, the quality of the mental health treatment

and the consumer's ability to participate meaningfully in decision-making regarding their mental health treatment.

The PA provided 435 people with 1,028 occasions of advocacy across a range of matters. These included issues relating to the care, support and treatment received by consumers and to mental health orders made by the ACT Civil and Administrative Tribunal (ACAT).

### CASE STUDY

#### Psychiatric assessment

MH1 is an adult from a non-English-speaking background. MH1 contacted the PA following contact from ACT Mental Health Services, the nature of which was not clear. The PA advised MH1 that an application had been received by ACAT for a psychiatric assessment, and that an assessment order had been made to compel MH1 to attend for an assessment or else be in breach of the ACAT order.

By engaging with MH1 and giving them a chance to voice their previous experiences and their concerns, it was discovered that they had a significant trauma history and did not consider themselves to have a mental illness.

The PA collaborated with a community advocacy agency to provide support to MH1 at the psychiatric assessment. The psychiatrist who conducted the assessment reported he was not convinced that MH1 either currently had a mental illness or had the previously diagnosed mental illness, which was the basis for mental health orders spanning six years, and the administration of mandated psychotropic injections. The assessment indicated that MH1 lived with ongoing trauma from abuse that began in childhood. Were it not for the PA's intervention, it is possible that MH1 would have been subject to further unwarranted interventions.

### CASE STUDY

#### Emergency detention

MH2 contacted the PA requesting advocacy in relation to involuntary admission at a mental health facility.

MH2 had already successfully appealed an application made by psychiatric staff at the facility for the extension of an emergency detention order for a further 11 days but requested assistance when a second application for an extension was made. The PA provided submissions at the hearing and ACAT again dismissed the order, advising the treating team that, at least in part, the evidence provided to support the application was invalid.

A third application was made for an extension of emergency detention and the same information that had been previously dismissed by ACAT was again included in the application as grounds for emergency detention. The PA again supported MH2 at this hearing, the outcome of which involved ACAT (for the third time in the month) dismissing the application for an extension of emergency detention.

## Individual advocacy—Alexander Maconochie Centre, Dhulwa and Gawanggal

The PA has responsibility for the oversight of services provided to individuals with mental health concerns and/or disability involved in the justice system.

In this reporting period, the PA visited the Alexander Maconochie Centre (AMC) six times to meet with detainees and staff involved in the provision of mental health and disability services. The PA has ongoing meetings with ACT Corrections Programs and interventions staff, including the disability liaison officer and staff of Custodial Mental Health Services. Further, in May 2021, the PA participated in an in-service meeting with Custodial Mental Health professionals to discuss the role of the PA and ways they can work together for the benefit of detainees with moderate-severe mental health issues.

The issues raised by detainees in 2020–21 were consistent with those well documented by the PA and other oversight agencies. Of ongoing concern is the lack of mental health services provided to detainees with mild to moderate mental health issues, including access to counselling.

Site visits to Dhulwa and to the newly refurbished Dhulwa extended care unit, renamed Gawanggal, and contact with consumers at these facilities throughout this reporting period raised serious concerns about a range of issues relating to care, support and treatment of consumers that appears to be overly restrictive. Most recently it has been brought to the attention of the PA that consumers who are not forensic consumers are being transferred from the Adult Mental Health Unit (AMHU) at the Canberra Hospital for admission to Dhulwa. The admission of these consumers to Dhulwa, which was established as the most secure and, by extension, most restrictive mental health unit in Canberra, appears to contravene the spirit and objects of the MH Act, insofar as people with a mental disorder or mental illness should receive assessment and treatment, care or support in a way that is least restrictive or intrusive to them.

The PA visited Gawanggal and raised concerns about the facility lacking a model of care. Further, the PA identified issues with the high level of security at Gawanggal, given it is not a designated as a *secure* mental health unit and yet is a locked premises surrounded by extensive fencing. The PA sought advice from Canberra Health Services regarding both the lack of a model of care and the legal basis for the level of security at Gawanggal.

The PA has also liaised with the Health Services Commissioner regarding these concerns and will continue to monitor the provision of mental health services at these facilities, pending advice about these issues being received.

## Representation at ACAT mental health hearings

In 2020–21, the PA triaged the review of applications and attendance at mental health hearings at ACAT for young people, people involved in the justice system and individuals for whom applications had been lodged for either mental health assessments or ECT. During this reporting period, the PA attended 108 mental health hearings for 90 individuals.

While ACAT hearings for consumers in the AMHU resumed in person in 2021, hearings for most consumers continued to be undertaken using conference phone calls, which was challenging for many consumers, carers and professionals due to difficulties experienced with the dial-in technology, poor phone reception, or participants being unable to use visual cues to understand and participate in proceedings and difficulties hearing the contributions of all parties to the proceedings. These challenges have limited the ability of consumers and carers to participate in proceedings which, depending on the determinations made by ACAT, have significant impact on the mental health and daily lives of consumers.

## Timeliness of information being received

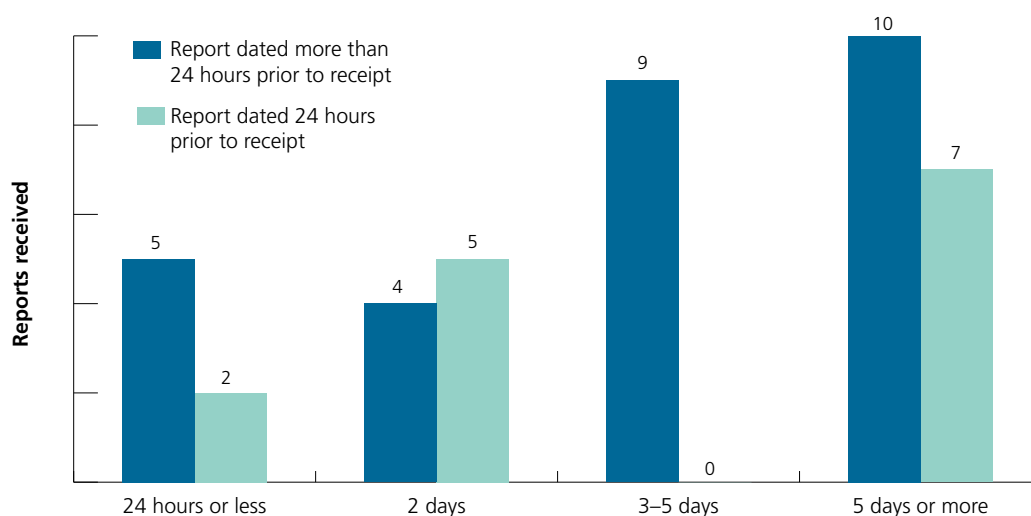
The PA's review of mental health documentation has identified that applications and other documentation are often not provided to the PA with sufficient time to give due consideration ahead of scheduled hearings at ACAT. In April 2021, the PA undertook a brief review to assess the timeliness of applications and review reports being provided to the PA, finding that:

- 89 applications and review reports for mental health orders scheduled for hearing at ACAT were received.
- 56 per cent of these reports were provided to the PA by the ACAT within 48 hours of being written, based on the date the report was signed.
- However, 14 per cent of reports were provided to the PA with 24 hours or less to review ahead of the hearing and most frequently the PA received reports only 48 hours prior to the hearings.

Further analysis was undertaken of 42 review reports for mental health orders relating to consumers living in the community and receiving treatment from the community mental health teams. Three of these reports related to mental health orders that had been made for three months duration and the remaining 39 reports reviewed orders made by the ACAT for six months. Of these 42 reports, two-thirds were received within 24 hours or less of the hearing.

The PA's capacity to review reports and make decisions regarding any further action, such as preparing a submission or prioritising attendance at a hearing, is severely limited when the reports are received within minimal timeframes. Further, such minimal timeframes also limit the consumers' ability to consider the report, arrange for legal representation and have the opportunity to provide direction to their legal representative. Given the significant impact a mental health order has on the lives of consumers and their mental health, this situation is of considerable concern and the PA will continue to monitor this in the next reporting period.

**Figure 12: Provision of review reports for mental health hearings for outpatient consumers —April 2021**



### Providing effective oversight

The PA undertakes oversight of government mental health services provided to individuals residing in the community, and at inpatient facilities, the AMC and Dhulwa.

The PA uses a range of mechanisms to achieve its oversight functions, including contact with consumers, representation at oversight meetings and other forums, visiting inpatient and forensic facilities and reviewing mental health compliance documentation provided to the PA in accordance with the MH Act.

In addition to the oversight activities detailed below, the following forums support the PA's oversight:

- Canberra Health Services Restrictive Practices Review meetings
- Mental Health, Justice Health and Alcohol and Drug Services Restraint, Seclusion and Restrictive Practices Review Committee
- Safewards forums
- consumer meetings at the AMHU
- meetings with Mental Health Official Visitors
- meetings with Consumer and Carers' Organisations.

### Oversight of community, inpatient and forensic facilities

Throughout 2020–21, the PA undertook site visits to the AMHU at the Canberra Hospital and other wards accommodating mental health patients, the AMC, Dhulwa and Gawanggal. These visits included meeting with consumers and staff and attendance at consumer meetings. Issues that were raised with advocates by consumers included the following:

- consumers considering that inpatient mental health treatment was not required
- consumers wanting further information regarding discharge planning
- issues regarding mental health hearings at ACAT
- issues relating to prescribed medications
- issues relating to the quality of care provided by staff.

## Liaison with Official Visitors for mental health matters

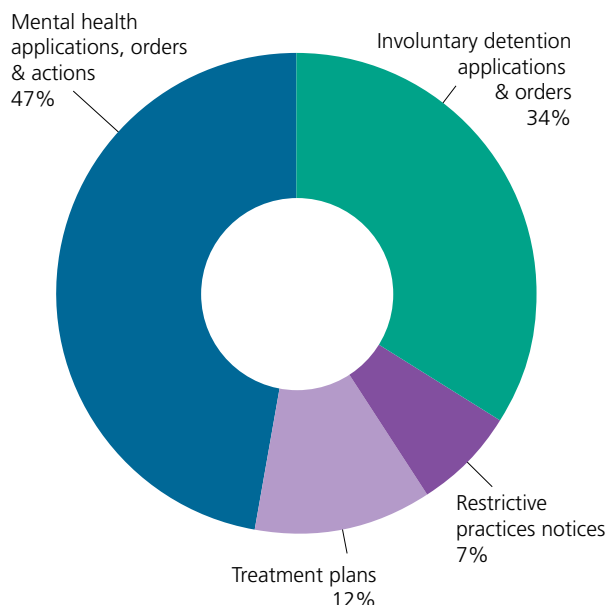
Throughout 2020–21, regular meetings occurred with the Official Visitors responsible for mental health visitation in the community, at inpatient facilities and at the AMC. These meetings provided additional oversight information regarding issues of concern to individuals and their carers, and the functioning of facilities that provide services to people with mental health issues.

## Review of mental health documentation

The MH Act requires the PA to be provided with all mental health documentation regarding involuntary detention, restraint, involuntary seclusion, forcible giving of medication, applications for psychiatric assessments and mental health orders, and documents related to mental health treatment plans.

In 2020–21, the PA was provided with 7,034 mental health documents relating to 1318 consumers. The breakdown of the different mental health documentation received is below (Figure 13).

**Figure 13: Types of mental health documentation provided to the Public Advocate (2020–21)**



## Review of emergency detention

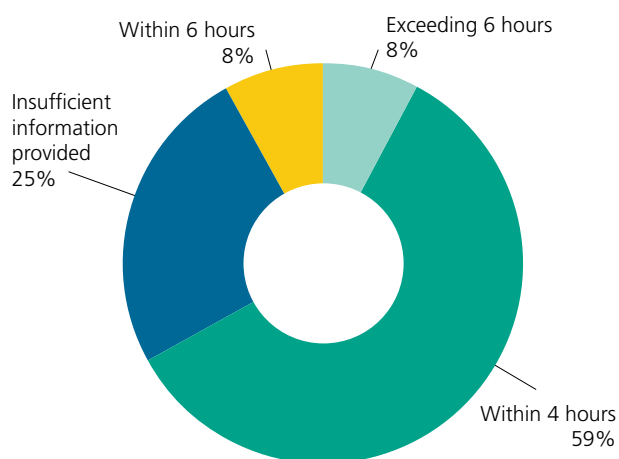
In 2020–21, the PA received 1,197 notices of 'Authorisation/ Notification of Involuntary Detention'. In reviewing these notices, it was identified that the PA was often not provided with adequate information to enable appropriate oversight of the use of involuntary emergency detention.

An analysis of the 104 notices received by the PA for January 2021 raised concerns regarding the information that must be provided to the PA under sections 84 and 89 of the MH Act. When emergency detention has been authorised, within 12 hours of the commencement of detention, the PA must be informed of the person's name, the reason for detention and the facility where the person is detained. The PA must also be notified if a person has not been given an initial examination by a consulting psychiatrist within four hours and the reason why the examination did not occur within this timeframe.

The analysis of data undertaken identified the following regarding the timing of the initial psychiatric examination to authorise an emergency detention:

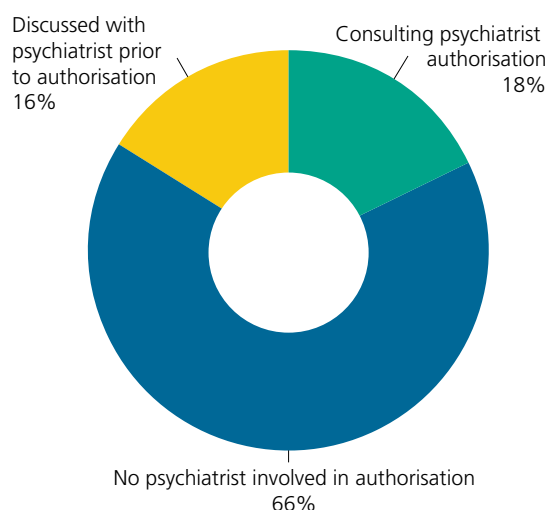
- Over a quarter of the emergency detentions notified to the PA related to individuals who were inpatients at the time the emergency detention was authorised.
- Of the forms received by the PA that were assessed for the timeliness of examination, 59 per cent of individuals received an initial examination within the required four hours.
- A further 25 per cent of these forms contained insufficient information to determine how long it was between arrival at the facility and the initial examination.
- No notices of failure to provide the initial examination in the required timeframe were received by the PA, despite this occurring at least 10 times (see Figure 14 below) and possibly more, given that 25 per cent of forms provided insufficient information to determine the timing of the initial examination. *Note, this data only relates to admissions, not inpatients.*

**Figure 14: Time between arrival at hospital and initial psychiatric examination, January 2021**



The MH Act requires authorisation of emergency detention to be undertaken by a consultant psychiatrist and either a psychiatric registrar or doctor. Of the 104 forms received by the PA, only 18 per cent were signed by a consultant psychiatrist. A further 16 per cent were signed by psychiatric registrars and/or medical officers who noted they had consulted with a psychiatrist. However, the remaining 66 per cent of emergency detention authorisations were not signed by a consultant psychiatrist and therefore it is not clear that the legislative requirements for the authorisation of these emergency detentions was satisfied.

**Figure 15: Authorisation of emergency detention, January 2021**



The PA will progress a more comprehensive analysis of the data and will liaise with Canberra Health Services regarding improving the information provided to the PA to enable better oversight of the use of emergency detention at mental health facilities.

### ***Review of notifications for frequent notification consumers***

A review of the 25 consumers for whom the PA received the most mental health documentation was undertaken and provided the following information:

- 797 mental health documents were received in respect of these 25 consumers—an average of 32 documents per consumer.
- In addition to their mental health diagnoses, these consumers also experience a range of comorbid vulnerabilities such as physical, neurological and cognitive disabilities, histories of trauma and/or limited community supports.
- 60 per cent of these consumers were male and the average age was 39 years.
- Of these consumers, the date of initial involuntary treatment from ACT Mental Health Services ranged from 1996 to 2021, with a median average involvement of eight years in the involuntary mental health system.
- 24 per cent of these consumers have had significant involvement with the justice system.

### ***Review of restrictive practices notifications***

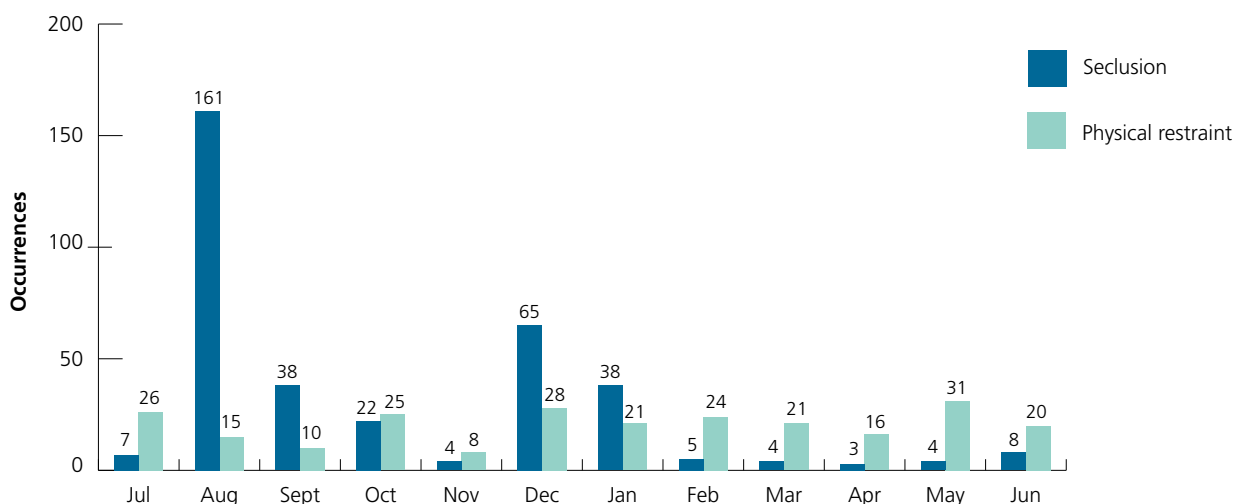
In this reporting period, 504 documents were received notifying the PA of occurrences of one or more restrictive practices of involuntary seclusion, physical restraint and/or forcible giving of medication.

### ***Seclusion and physical restraint***

A review of the restrictive practice documents provided to the PA and information from Canberra Health Services restrictive practice registers provided information on 359 occurrences of seclusion and 245 occurrences of physical restraint (Figure 16).



Figure 16: Occurrences of seclusion and physical restraint (2020–21)



A gender breakdown of seclusion data identified that 93 per cent of all seclusions were experienced by male consumers and 85 per cent of all seclusions were experienced by people aged 26–39 years of age. Similarly, the breakdown of physical restraint data shows that 67 per cent of all use of physical restraint was experienced by males and 49 per cent was experienced by people aged 26–39 years of age.

### Forcible giving of medication

The PA continued to review Canberra Health Services' registers for the forcible giving of medication against the notices received by the PA, noting there are still significant differences in reporting. The PA will continue to monitor the use and reporting of the forcible giving of medication in the next reporting period.

### Reasons for restrictive practice use

The 504 restrictive practices notifications provided to the PA during the 2020–21 period were analysed to determine the reasons provided by Canberra Health Services staff for each occurrence of a restrictive practice. These notifications often provided more than one reason for the use of restrictive practices and usually specified either 'Risk of harm to others' or 'Risk of harm to self', or both. Often notifications also provided further information regarding the reasons for the use of restrictive practices.

Table 37: Reasons for use of restrictive practices (2020–21)

Reason given for restrictive practice	Number of times reason was referenced
<b>Primary risk factor</b>	
Risk of harm to others	269
Risk of harm to self	181
<b>Additional information</b>	
Threats to staff	143
Violence to staff	97
Declining medication	59
Not following staff direction	57
Threats to consumers	15
Violence to consumers	11
Property damage	11

In the next reporting period, the PA will continue to monitor the use of seclusion, physical restraint and the forcible giving of medication for mental health consumers. This monitoring will focus on efforts made by staff of the Canberra Health Services to minimise the use of these restrictive practices.

## Public Advocate—complex needs/disability, including protection matters

Delivering accessible services that empower and support people

### Individual advocacy for people with complex needs/disability

Referrals to the PA for complex needs/disability advocacy come from a variety of sources including individuals themselves; their guardians, carers and families; disability organisations; and statutory agencies.

In 2020–21, the PA received 220 enquiries related to people with complex needs/disability. The types of enquiries brought to the PA's attention included allegations of abuse and/or breach of rights, requests for individual advocacy and requests for information and referral.

In response to these referrals, 2,372 individual occasions of advocacy were undertaken including attending court or tribunal hearings, meeting with clients and their supports, issuing correspondence and conducting investigations. The average enquiry remained open for 53 days. This data reflects the complexity of each matter and the intensity of the advocacy response required.

In this reporting period, disability advocacy was provided in response to a range of issues, which included:

- Suspensions and/or reduced timetables in both mainstream and specialist schools for children and young people with disability and complex needs.
- Concerns about inappropriate use of restrictive practices by private guardians and other family members.
- Allegations of violence, abuse and exploitation against people with disability and complex needs perpetrated by their guardians, carers and other family members.
- Ongoing challenges faced by those with exceptionally complex needs accessing disability supports and mainstream health services.
- Co-tenant violence occurring in shared accommodation settings.

#### CASE STUDY

##### Alleged violence by guardian

CND1 has a cognitive impairment and resides with their family member and guardian, AA. Support workers alleged they witnessed several instances of violence perpetrated against CND1 by AA. CND1's support agency contacted the Commission to make a vulnerable person complaint, and an internal referral was made to the PA for disability advocacy. In response, the PA worked with the disability support agency to report the matter to police and develop a safety plan for CND1. The PA also engaged other agencies to ensure a coordinated response was developed to facilitate CND1's safe removal from the property. During CND1's admission to hospital for a medical condition, and through collaboration between the PA, hospital treating team and other key agencies, AA was removed as CND1's guardian, which enabled suitable accommodation and care arrangements to be made that ensured CND1's safety post-discharge.

#### CASE STUDY

##### Right to education

CND2 has an intellectual disability and a comorbid mental health diagnosis. In recent months, CND2 has been subject to two school suspensions and an ever-reducing school timetable. The school cited issues of occupational violence as a key reason for excluding CND2 from school. CND2's parent contacted the PA to seek assistance in advocating for CND2's right to education. In response, the PA met with the school to advocate for CND2 and their family and assisted with the establishment of a care team. Through the care team process, a communication plan between the school and CND2's family was developed, increased support hours were put in place for CND2, and a positive behaviour support plan was developed with accompanying training for school staff. Supported by the PA's intervention, CND2 now attends school every day with attendance slowly returning to a full timetable.

### Individual advocacy for protection matters

Under the *Family Violence Act 2016* and *Personal Violence Act 2016*, the Magistrates Court either on application by the PA or of its own initiative can refer a protection matter to the PA so that the referred party can get representation or have a litigation guardian appointed. In these matters, the PA seeks to facilitate participation and inclusion in decision-making processes, ensure access to legal representation, support court attendance, advocate for reasonable adjustments and make referrals as required.

Over the last three reporting periods, there has been a continued increase in referrals made by the Magistrates Court to the PA. In the current reporting period, 98 referrals were received (involving 104 persons), with 30 of these referrals involving children and young people. Respondents made up 91 per cent of referrals and nine per cent were applicants.

**Table 38: Number of referrals to the Public Advocate under the Family Violence Act 2016 and Personal Violence Act 2016 in the last five reporting periods**

	2016–17	2017–18	2018–19	2019–20	2020–21
Number of referrals	99	41	46	71	98
Number involving children and young people	43	11	5	33	30

Associated with these referrals, 458 compliance documents were reviewed, and 1,875 occasions of advocacy undertaken. Of note, the PA attended court on 40 occasions, conducted a file review on 51 occasions, and made 271 phone calls to referred parties or their supports. These figures represent the increasing volume of referrals and the intensity of individual advocacy required in this area.

**Table 39: Reasons for protection orders referred to the Public Advocate**

Reasons for protection orders	Number
Domestic and family violence	31
Neighbourhood disputes	29
Violence in educational settings	25
Personal violence	7
Workplace violence	6

## CASE STUDY

### Workplace order and disability supports

CND3 was referred to the PA as the respondent to a workplace order. Initially, the PA undertook a triage assessment and found that CND3 was a National Disability Insurance Scheme (NDIS) participant with an appointed private guardian.

Ahead of the first court date, the PA liaised with CND3's guardian, their disability support agency and a community advocate who had been involved with CND3 historically. It was revealed that CND3 had not been receiving any NDIS supports despite having a significant amount of NDIS funding. The major reasons cited for this situation was that CND3's behavioural presentation was too complex.

The PA called a meeting with the guardian and the disability support agency to devise a plan. It was decided a new support coordinator would be allocated to CND3 and attempts made to identify appropriate supports. Coincidentally the new support coordinator had been CND3's support worker when CND3 received services

under Disability ACT and this assisted them to develop rapport quickly. The support coordinator immediately began establishing CND3's NDIS supports.

The PA attended the first court date for the matter with CND3's guardian. The PA reported to the deputy registrar on the work undertaken to date and requested an extended adjournment of six months to allow sufficient time for a potential change in behaviour as a result of increased NDIS supports. This adjournment was granted.

Ahead of the second court date, the PA spoke with CND3's guardian and support coordinator. It was revealed CND3 was now receiving daily disability supports, attending regular psychologist appointments and had been complying with the interim order in place. The PA attended the second court date at which the deputy registrar advised that the matter would be dismissed, and the workplace order was dropped due to the progress CND3 had made.

In monitoring referrals made by the Magistrates Court over the last two reporting periods, the PA has noted an increase in protection orders being sought to respond to conflict between children and young people in educational settings.

**Table 40: Number of referrals involving educational settings over the last two reporting periods**

Reporting period	Number of referrals involving educational settings
2019–20	16
2020–21	25

The PA is concerned with ensuring this does not become a trend, given the significant impact it can have on children and young people's right to education. As not all protection matters are referred to the PA, the PA wrote to the Protection Unit at the Magistrates Court to request de-identified data on protection matters involving children and young people in educational settings to ascertain whether the PA's observations reflect a broader trend in protection matters. The PA will work with the Protection Unit in the next reporting period to explore this issue further.

### Management Assessment Panel

The Management Assessment Panel (MAP) is a service of last resort that facilitates coordination of case planning and service provision for individuals with complex needs/disability in instances where services delivery is poorly coordinated and/or inadequate.

In 2020–21, the MAP received four referrals, three of which progressed to convening and hosting a case conference. Ideally, individual disability advocacy is provided before a MAP is convened with the aim of facilitating resolution to the presenting issues. This was possible for one of the three MAP referrals received in the 2020–21 reporting period. In total, 188 occasions of advocacy were undertaken for MAP referrals, an average of 47 occasions of advocacy per referral.

#### CASE STUDY

##### Complex comorbidity

CND4 has a dual diagnosis of intellectual disability and mental illness, with a long history of drug use and multiple occasions of contact with the justice system including periods of incarceration. CND4 resides in the community and receives disability supports at home.

A referral to the MAP was received for CND4 in the current reporting period. At this time, CND4's NDIS provider had terminated services on account of workplace safety—citing that staff were being regularly exposed to CND4's drug use. CND4 was also experiencing a series of physical health issues but was unable to access mainstream health services to have these addressed. Finally, CND4's previous support agency was reporting that CND4 had been experiencing patterns of sexual and physical violence in her home for several years.

A MAP conference was hosted to bring together those providing support to CND4. Through the MAP process, new disability organisations were brought in to strengthen CND4's care team and create an integrated multi-agency response. CND4 now receives twice-daily supports at home, with CND4's care team meeting frequently to discuss and address issues that have the potential to reach crisis point. Advocacy also continues around reducing barriers to CND4 accessing mainstream healthcare.

### Interagency collaboration

In 2020–21, the PA continued its interagency collaboration work to protect and uphold the rights of people with complex needs/disability.

As in past reporting periods, the PA met on a regular basis with the three Official Visitors for disability (OVs). Collaboration between the PA and OVs allows for joint approaches to disability advocacy matters and provides additional opportunities for oversight of issues for people with complex needs/disability, and the standard of care they receive at home.

Further, collaboration with the Integrated Services Response Program (ISRP) at the Office for Disability continued to strengthen during this reporting period. The PA and ISRP worked together to respond to several matters during 2020–21 with the ISRP providing crisis service coordination and the PA providing individual advocacy and oversight.

#### CASE STUDY

##### Interagency collaboration

In recent years, CND5 became a quadriplegic and required home modifications. After being discharged from hospital, CND5 was residing in supported accommodation and renting equipment to assist with undertaking daily living activities. CND5 contacted the PA raising concerns that their NDIS funds were repeatedly being exhausted before the annual plan review but was finding it difficult to ascertain why.

The PA referred CND5 for an OV visit. The OV met with CND5 and separately with their support coordinator and house manager. These conversations revealed that CND5's services were poorly coordinated, with stakeholders blaming each other for the repeated exhaustion of CND5's NDIS funds. The OV made a referral to the ISRP for short-term crisis coordination so that the issues CND5 was facing could be resolved.

Throughout this period, the PA maintained a monitoring and oversight role and received regular updates on progress from the OV.

The PA also participated in interagency forums related to its functions under the *Family Violence Act 2016* and *Personal Violence Act 2016*. The PA continued to attend the Family Violence Interagency Meeting hosted by the Protection Unit at the Magistrates Court, which brings together the legal, judicial and community agencies that provide services at the court related to protection orders.

Additionally, in 2020–21, the Commission launched the Family Violence Safety Action Pilot, a 12-month initiative that enables government and non-government agencies to collaborate, identify, assess and respond to high-risk family violence matters. During this reporting period, the PA participated in several multi-agency meetings for the pilot for clients with complex needs/disability experiencing violence and abuse.

### Review of Public Advocate functions in the complex needs/disability portfolio

In 2020–21, the PA undertook a review of its legislative functions in respect of people with complex needs/disability as part of revising the portfolio's practice approach. A suite of standard operating procedures was developed, which outline the PA's legislative roles and responsibilities, intake processes and practice approach to its functions.

This review also found inconsistencies in the provision of compliance documentation to the PA under the *Guardianship and Management of Property Act 1991* and the *Powers of Attorney Act 2006*. In response, the PA wrote to Canberra Health Services to request further information aiming to clarify these inconsistencies. A response from Canberra Health Services was received late in the reporting period and this piece of work will continue into the next reporting period.

### Providing effective oversight

The PA proactively monitors settings that support children, young people and adults with complex needs. In addition to the oversight activities detailed below, the PA also attends the Restrictive Practices Oversight Steering Group.

### Registered positive behaviour support plans for children and young people

Section 16 of the *Senior Practitioner Act 2018* requires that registered positive behaviour support plans (PBSPs) for children and young people are provided to the PA for monitoring and oversight of the use of restrictive practices. These referrals also enable the provision of individual and/or systemic advocacy where appropriate.

Since the commencement of the *Senior Practitioner Act* in 2018, the PA has received 38 registered PBSPs for children and young people, 18 of which were received during the 2020–21 reporting period.

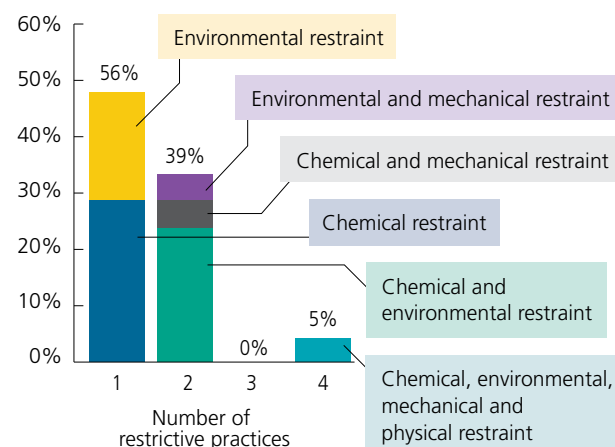
**Table 41: Number of registered positive behaviour support plans for children and young people received over the last three reporting periods**

Reporting period	Number of PBSPs received
2018–19	4
2019–20	16
2020–21	18
<b>Total</b>	<b>38</b>

The 18 PBSPs received in the current reporting period involved 17 individual children and young people, three of whom the PA advocated for to resolve presenting issues. Across the PBSPs received, chemical restraint was the most common restrictive practice (72 per cent of plans) followed by environmental restraint (61 per cent of plans). PBSPs varied in length with 61 per cent being approved for six months, and 28 per cent for 12 months.

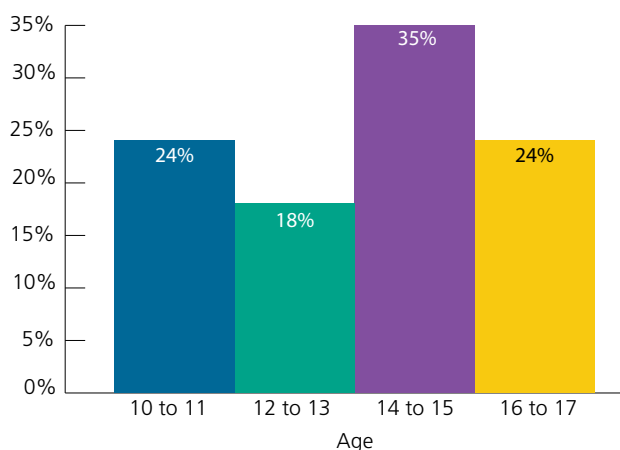
Most plans (56 per cent) only involved one restrictive practice, with the remaining 44 per cent involving two or more restrictive practices.

**Figure 17: Breakdown of restrictive practices per registered positive behaviour support plan received**

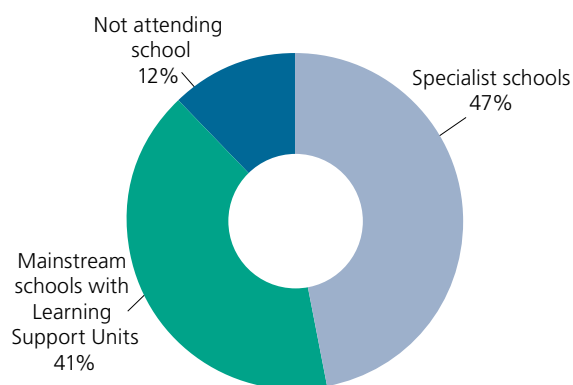


For the PBSPs received in 2020–21, the ages of the 17 children and young people ranged from 10 to 17 years of age, with the greatest proportion (35 per cent) being between 14 and 15 years of age. Of the 17 children and young people who were the subject of PBSPs, 47 per cent attended specialist schools and 41 per cent attended mainstream schools with learning support units. The remaining 12 per cent of children and young people were not attending school at the time the plan was registered.

**Figure 18: Breakdown of children and young people with registered positive behaviour support plans by age**



**Figure 19: Breakdown of types of school attended by children and young people with registered positive behaviour support plans**



It should also be noted that nearly half of the children and young people with registered PBSPs were under the care of the Director-General. Given this represents a significant cohort, the PA used section 879 of the CYP Act to undertake further investigation, specifically in relation to the nature of care being provided to children and young people with disability in residential care and how their complex needs are being met in this setting.

## ***Oversight of older persons mental health facilities***

The MH Act allows for the PA to visit any mental health unit in the ACT in order to meet with individuals involuntarily detained and visit voluntarily admitted consumers. The PA regularly visits the Older Person's Mental Health Inpatient Unit (Calvary Public), Acacia Ward (Calvary Public), and the Adult Mental Health Rehabilitation Unit (University of Canberra Hospital). The PA uses these visits to speak with consumers about any concerns they may have about their treatment, attend consumer meetings and meet with the healthcare and allied health professionals providing mental health treatment, care and support.

## ***Hoarding and squalor case management***

Established in 2015, the Hoarding Case Management Group (HCMG) facilitates an integrated and coordinated cross-government interagency approach to managing severe and complex hoarding and domestic squalor cases. This model acknowledges the complexity of these matters and draws on the legislative levers available across numerous ACT Government directorates to respond. Case coordination and oversight for approximately six matters is undertaken each year with a lead agency assigned to each to facilitate the implementation of action plans and the multidisciplinary response for each matter. The PA participates in the HCMG which meets on a bimonthly basis (and out-of-session when required).

In this reporting period the PA was lead agency for three matters and provided three instances of advocacy in respect of a fourth matter. Of the matters for which the PA was lead agency, one in particular required the PA to undertake 63 actions of advocacy and 37 documentation reviews post the referral of the client to the HCMG. The PA's actions included attending meetings with the client, those providing care, legal representatives and regulatory agencies, making phone calls and issuing correspondence to facilitate necessary actions by others, undertaking service visits and providing direct advocacy support to the person during property inspections.



## Children and Young People Commissioner

### Role and functions

The role of the Children and Young People Commissioner (CYPC) is to:

- engage with and listen to children and young people to ensure their voices are heard on issues that affect them
- improve services for all children and young people.

The CYPC is also the PA, but this section discusses the role of CYPC.

### Delivering accessible services that empower and support people

#### Shining a light on young people's experiences of family violence

Throughout 2020–21, the CYPC continued to advocate for the needs of children and young people who live with family violence. Following joint work with the ACT Government in 2019–20 to listen to and understand young people's unique perspectives and experiences of family violence, the CYPC continued to convey their messages to senior leaders in government and community about the changes required in systems and support. Notably, the CYPC worked closely with staff at Relationships Australia to ensure their new peer support service for young people who live with family violence, *Got Your Back*, was designed and responsive to young people's needs.

The success of the CYPC and Family Safety Hub's partnership was recognised by being awarded both a Community Services Directorate Director-General Excellence Award and the ACT Public Service Award for Excellence in Innovation.

#### Understanding children and young people's experiences of racism in the ACT

The CYPC has undertaken the groundwork for a consultation with children and young people about their experiences and perceptions of racism in the ACT. Several representations have been made to the CYPC over the past 18 months expressing concerns about racism experienced by children and young people. Despite its prevalence, a literature review showed that there is a lack of child-centric evidence and practice regarding racism. The CYPC is partnering with Curijo and the Multicultural Hub for these consultations, which were originally scheduled for the second half of 2021. Unfortunately the consultations had to be postponed due to the COVID lockdown and will now occur in early 2022. The CYPC anticipates sharing findings early in 2022 and will work with government and the

community to respond to concerns or ideas raised by children and young people through this consultation.

### Young Thinker forum

The Young Thinker forum (YTF) was launched during Children's Week in October 2019. The YTF invites young people in the ACT to make submissions to the CYPC, expressing their thoughts or opinions about issues of importance to them. Submissions can be provided in any format or through any medium.

The YTF also provides an avenue for the CYPC to commission the views of children and young people on specific issues.

With the permission of the child or young person (and that of their parents where appropriate), submissions are published and disseminated, and/or used in reports or submissions. Most importantly, the views and opinions received through the forum inform future directions and projects for the CYPC.

In 2020, through the YTF we learned from children and young people about their experiences of COVID, including the impact on connections with peers, adverse effects on mental health and education, loss of employment and stable housing, limited child/youth-friendly communication from authorities, feelings of shock and fear of the unknown, and mixed feelings towards 'reopening' after lockdown.

***You need to have play dates ... but the virus was here.***

***Covid 19 was the hardest time in my life. I have had some hard things in my life but none of them came close to Covid.***

***Sunday night, one news article came out saying Canberra schools were closing. Unsure of what that meant, we did nothing. A couple minutes later, my mum's phone rang. 'Schools are closing,' her boss said. Another couple minutes and more news articles were coming out, each one saying schools were closing. Next, the Prime Minister was holding press conferences saying they weren't closing. Confused and stressed, we were unsure of what was happening.***

Through the YTF, one young Canberran took the opportunity to interview the CYPC, and asked her opinion about many important topics, including the engagement and promotion of children and young people's rights within public life, how the community can better support

marginalised children and young people, and how we, as a community, can move forward beyond COVID. The interview was recorded and posted online.

## Increasing the accessibility of the Commission

The CYPC has commissioned YLab, a co-design and consulting enterprise that engages young people as YLab Associates, to consult with young Canberrans and advise on options for an online presence that will increase the accessibility of the Commission to young Canberrans.

In 2020–21, the CYPC also held an internal workshop for staff from all business units in the Commission to explore their collective roles in enlivening the rights of children and young people in the ACT.

## Mentoring the Youth Advisory Council's social inclusion focus group

Ahead of the 2021 Youth Assembly (the Assembly), the CYPC worked with a subgroup of the Youth Advisory Council to guide their approach to, and design of, a session on Inclusive Societies. At the Assembly, the subgroup led a session on social inclusion, which explored issues of safety, discrimination, culture and identity for young Canberrans. The session also highlighted ideas about what makes an inclusive community.

## Listening to children and young people

The CYPC team continued to engage with and listen to children and young people about issues affecting them. Notable examples included:

- The CYPC hosted a Youth Advisory Group with CREATE ACT to hear about what was happening for young people living in out of home care in the ACT.
- The CYPC was a panel member for ACT Education's listening event with 80+ LGBTIQ+ young people, exploring issues raised in *Writing Themselves In 4* and the responses needed in the ACT to improve inclusion and wellbeing for LGBTIQ+ youth.
- The CYPC was an Expert Panellist at the EMERGE2021 Multicultural Youth Summit. The summit provided young people from refugee and migrant backgrounds with the opportunity to discuss the issues, concerns and challenges they face living in the ACT, and share their ideas for positive change.
- The CYPC attended the ACT 2021 Youth Assembly to support the Social Inclusion Focus Group and to hear from young people on other issues of focus at the Assembly, which included environment and sustainability, rights and respectful relationships, and youth employment.

## Providing effective oversight

### Child Safe Standards Scheme for the ACT

One of the many significant recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse completed in 2017 was that it be mandatory for organisations engaged in work with children to comply with Child Safe Standards. This recommendation was intended to drive the culture change and organisational reforms needed to ensure that the widespread abuse of Australia's youngest citizens never again occurs on the scale uncovered by the Royal Commission.

In February 2019, all premiers and chief ministers endorsed the National Principles for Child Safe Organisations and committed to implementing them.

The ACT Government has committed to implementing the national standards in the ACT through a Child Safe Standards Scheme and intends that formal oversight functions will sit with the Commission. Throughout 2020–21, the CYPC continued to advocate for this reform to be implemented in the ACT as expediently as possible. A range of organisations sought informal advice from the Commission to prepare for the scheme, and advice was given to CMTEDD about making the scheme both efficient and effective for the Territory.

### Policy advice and systemic reform

The CYPC responded to numerous requests for advice from within government and non-government organisations about including children and young people and making processes, policies and services safer and more effective. Examples of organisations that requested advice include:

- CSD, in relation to a range of projects including child-friendly complaints processes and the therapeutic residential co-design project
- Inspector of Correctional Services, regarding youth-centric processes and assessment frameworks
- ACT Together, regarding their Health and Safety Policy
- Australian Childhood Foundation, regarding their Therapeutic Residential Framework
- Commonwealth Department of Education, Skills and Employment (DESE), regarding youth-inclusive methodologies for evaluating the Transition to Work Program
- CMTEDD's Office of LGBTIQ+ Affairs, regarding the Capital of Equality Second Action Plan, and deferral of medical interventions on intersex children
- early childhood education and care providers regarding Child Safe Standards
- National Office for Child Safety, regarding child-friendly complaints processes
- Meridian, regarding the development and launch of a new LGBTIQ+ youth group.

# Scrutiny

During 2020–21, the following recommendations were relevant to the Commission.

The *Protection of Rights (Services) Legislation Amendment Act 2016* reformed the structure and operation of protection of rights services in the ACT, including the Commission. A review of these amendments was provided for in the Act. The Protection of Rights Services Review formally commenced on 24 June 2020 and was conducted by Insight Consulting Australia. It made the

following recommendations relevant to the Commission. The government response to the review was tabled in the ACT Legislative Assembly on 22 June 2021. The government's agreement to each recommendation is noted below. The review recommendations and the government response are available at [www.parliament.act.gov.au/\\_data/assets/pdf\\_file/0006/1787928/Protection-of-Rights-Services-Review-Final-Report-Government-Response.PDF](http://www.parliament.act.gov.au/_data/assets/pdf_file/0006/1787928/Protection-of-Rights-Services-Review-Final-Report-Government-Response.PDF)

**Table 42: Summary of recommendations**

Summary of recommendations	Government response	Commission action	Status
1. The President and each Commissioner continue to lead and interact in ways which promote strong collegiality across the whole organisation and with other oversight bodies.	Agreed	The Commission will continue to operate collegially both internally and with other oversight bodies.	In progress
2. Consideration be given by the President and Commissioners jointly as to the role and focus required of the President over the next strategic planning period.	Agreed	The Commission will continue to review the role and focus of the President.	In progress
3. The Commission develop a systematic whole of Commission induction process for new staff.	Agreed	The Commission will continue to develop its existing induction program.	In progress
4. The Commission examine ways to include divergent perspectives of individual Commissioners, where strategic.	Agreed	The Commission will continue to ensure that all Commissioners' views are presented strategically.	In progress
5. The Commission develop robust means for evaluating and obtaining reliable feedback about all of its functions.	Agreed	The Commission will continue to use a variety of means for obtaining feedback and evaluating its functions.	In progress
6. In relation to complaints about the Commission: that the Commission publish <ul style="list-style-type: none"> <li>a. a robust policy and process</li> <li>b. plain language summary information, including in the Client Services Charter.</li> </ul>	Agreed	The Commission posted a fact sheet on its website about the process for making complaints to the President about the quality of its services. The Commission also included a plain language summary in its client services charter 2020–22.	Complete

Summary of recommendations	Government response	Commission action	Status
7. The Commission make the most of insights from staff and key external stakeholders in its next strategic planning process.	Agreed	The Commission included the views of its staff and external stakeholders in the development of its strategic plan 2021–24. The Commission intends to establish an external Community Reference Group.	In progress
8. The Commission monitor intake performance to ensure effective decision-making on which part of the Commission is best placed to lead any one matter.	Agreed	The Commission will continue to monitor and review its initial triage process.	In progress
9. The Commission consider whether it will be strategic to combine the community education functions of each Commissioner into one approach.	Agreed in principle	The Commission has an overarching community engagement approach. However, depending on the target audience for community education, customised approaches may be required.	In progress
10. The Commission continue to engage early and pro-actively with ACT Government policy, strategy and legislative development and review as invited.	Agreed	The Commission will continue to engage early and proactively and will invite feedback from policy makers.	In progress
11. The Justice and Community Safety Directorate (JACS) and the Commission review and update key performance indicators.	Agreed	The Commission and JACS have updated Key Performance Indicators.	Complete
12. The Commission consult stakeholders, particularly those from diverse backgrounds, on strategies to further improve the effectiveness of written and verbal communication throughout the complaints process.	Agreed in principle	The Commission will continue to engage with stakeholders involved in the complaint process and refine and reassess communication about the complaint process on an ongoing basis.	In progress
13. The Commission increase outreach and community initiatives with vulnerable cohorts.	Agreed	The Commission will continue to review means of reducing the barriers for vulnerable cohorts to access its services.	In progress
14. The Public Advocate review the volume of individual advocacy required by people subject to ACAT mental health proceedings, devise a response with key stakeholders and advise the Government.	Agreed	The Public Advocate will continue to engage with ACAT and stakeholders regarding independent advocacy in ACAT mental health proceedings and will advise the Government about a proposed approach including any resource implications.	In progress
15. The Commission raise community awareness and understanding of human rights and how they are protected by the Commission.	Agreed	The Commission will continue to raise community awareness and understanding of human rights, particularly among vulnerable cohorts.	In progress
16. The Government seek joint advice from the Public Trustee and Guardian and Public Advocate regarding: the allocation of responsibilities to pro-actively support the quality of private guardianship and management and adequate representation of people subject to guardianship hearings at ACAT.	Agreed	The Commission is willing provide advice to inform Government's decision-making about the broader issue of support for private guardians and financial managers, and those for whom they are appointed.	In progress
17. The process to establish an Aboriginal and Torres Strait Islander Children's Commissioner from here ought to involve a co-design process with the Aboriginal and Torres Strait Islander community and include the <i>Our Booris, Our Way</i> committee and the Commission.	Agreed	The Commission will support the co-design process and publication of a timeline for establishment of the position of Aboriginal and Torres Strait Islander Children's Commissioner.	In progress
18. The Aboriginal and Torres Strait Islander Children's Commissioner be independent of the Commission but co-located, with high collaboration and interaction.	Agreed in principle	The Commission will support collaboration and interaction with the Aboriginal and Torres Strait Islander Children's Commissioner.	In progress
19. All relevant legislation be amended to enable information sharing and collaboration between the Aboriginal and Torres Strait Islander Children's Commissioner and the Commission.	Agreed	The Commission will support information sharing and collaboration with the Aboriginal and Torres Strait Islander Children's Commissioner.	In progress

Summary of recommendations	Government response	Commission action	Status
20. The Aboriginal and Torres Strait Islander Children's Commissioner and the Commission develop a protocol to provide governance for their complementary and collaborative work.	Agreed in principle	The Commission will support the development of a protocol with the Aboriginal and Torres Strait Islander Children's Commissioner.	In progress
21. As a starting point, the Commissioner have similar powers and functions to those of the current Public Advocate and Children and Young People Commissioner and the ability to actively support complainants to access the existing Commission complaints processes.	Agreed in principle	The Commission will support the Aboriginal and Torres Strait Islander Children's Commissioner to assist complainants to access its existing complaints processes.	In progress
22. Community stakeholders were clear that, consistent with self-determination and cultural safety, the Commissioner needs to be Aboriginal or Torres Strait Islander. The community ought to be consulted further on other key attributes be represented in and/or lead the recruitment process.	Agreed	The Commission will continue to support self-determination, cultural safety and community consultation principles in relation to the attributes and recruitment of the Aboriginal and Torres Strait Islander Children's Commissioner.	In progress

## Aboriginal and Torres Strait Islander procurement policy

Table 43: Aboriginal and Torres Strait Islander procurement policy performance measures financial year 2020–21

No.	ATSIPP performance measure	Result
1	The number of unique Aboriginal and Torres Strait Islander Enterprises that responded to Territory tender and quotation opportunities issued from the Approved Systems.	Nil
2	The number of unique Aboriginal and Torres Strait Islander enterprises attributed a value of addressable spend in the financial year.	7
3	Percentage of the financial year's addressable spend of \$1.89 million spent with Aboriginal and Torres Strait Islander Enterprises (target 1%).	0.19%

## Aboriginal and Torres Strait Islander reporting

The Commission provided input to the JACSD's Aboriginal and Torres Strait Islander Justice Action Plan, which reports on progress under the *Aboriginal and Torres Strait Islander Agreement (2019–2028)* (see also Ngattai yedduṅ: Listen good; Working with the Aboriginal and Torres Strait Islander community; Tours on country; and Aboriginal and Torres Strait Islander outreach program).

## Internal audit

JACSD's internal audit policies and procedures apply to the Commission (see the JACSD annual report 2020–21).

## Fraud prevention

There were no reports or allegations of fraud directed at the Commission in 2020–21. JACSD's fraud control policies and procedures applied to the Commission. Compliance is detailed in the JACSD annual report 2020–21.

## Human resources management

The ACT Government's shared services portal and JACSD's people and workplace strategy branch assisted the Commission with recruitment in 2020–21. The Commission manages staff retention, support and training. However, many of the courses which Commission staff undertook during the year were offered through JACSD.

In 2020–21 the Commission employed 78 staff, most of whom were female.

**Table 44: Full-time equivalent (FTE) headcount by gender**

Classification group	Female	Male	Total
FTE by gender	63.3	8.5	<b>71.8</b>
Headcount by gender	69	9	<b>78</b>
Percentage of workforce	88.5%	11.5%	<b>100%</b>

**Table 45: Headcount by employment classification and gender**

Classification group	Female	Male	Total
<b>Total</b>	<b>69</b>	<b>9</b>	<b>78</b>
Administrative officers	34	6	40
Health professional officers	4	0	4
Legal officers	0	1	1
Senior officers	27	2	29
Statutory office holders	4	0	4

**Table 46: Headcount by employment category and gender**

Employment category	Female	Male	Total
<b>Total</b>	<b>69</b>	<b>9</b>	<b>78</b>
Casual	1	1	2
Permanent full-time	29	6	35
Permanent part-time	11	0	11
Temporary full-time	20	2	22
Temporary part-time	8	0	8

**Table 47: Headcount by age and gender**

Age group	Female	Male	Total
<b>Total</b>	<b>69</b>	<b>9</b>	<b>78</b>
Under 25 years	6	1	7
25–34 years	16	4	20
35–44 years	13	2	15
45–54 years	18	1	19
55 years and over	16	1	17

**Table 48: Headcount by diversity group**

Group	Headcount	Percentage of total staff
Aboriginal and/or Torres Strait Islander	3	3.80%
Culturally and linguistically diverse	11	14.1%
People with a disability	6	7.7%

**Table 49: Years of service by gender**

	Female	Male	All staff
Average years of service	4.6	5.9	4.7

**Table 50: Recruitment and separation rates**

Recruitment rate	Separation rate
8.3%	8.3%



## Learning and development

Staff took part in a range of learning, development and training programs. All were relevant to the ACT Government's output areas for the Commission, and the Commission's strategic plan. All learning and development programs were delivered by registered training organisations.

**Table 51: Learning and development**

Course title	Course provider	No. of attendees
Sensorimotor Psychotherapy	Hummingbird Centre	1
Training for volunteer managers	Volunteering and Contact ACT Incorporated	1
International Childhood Trauma Conference	ICMS meetings Pty Ltd	3
A History Behind NAIDOC Week	Coolamon Advisors	1
Aboriginal and Torres Strait Islander Awareness (SBS) e-Learning	ACTGOV Learn	24
Aboriginal and Torres Strait Islander Cultural Awareness Workshop	CIT Yurauna Centre	3
Aboriginal and Torres Strait Islander Cultural Awareness Workshop	CIT Solutions	1
ACT Public Service Induction Program e-Learn	ACTGOV Learn	12
ACT Law Society event	Law Society of the ACT	1
Cultural Responsiveness	Indigenous Allied Health Australia	1
ANROWS National Research Conference on Violence against Women Symposium	Australian National Research Organisation for Women's Safety	4
Applied Suicide Intervention Skills	Lifeline Canberra	1
ATSIC Awareness Training	CIT Solutions	2
Behavioural De-escalation	CIT Solutions	1
Best Practice Recruitment & Staff Selection	Workplace Research Associates	5
Canberra Executive Forum	Executive Leadership Australia	2
Conference Workshop Deakin After Prison Network	Deakin After Prison Network	1
Counselling approaches for working with people with intellectual disability	WWild Sexual Violence Prevention Association Inc. QLD	5
Cultural awareness on country tour	ACT Council of Social Services	3
Culture and Dementia	Multicultural Communities Council of Illawarra	2
Domestic and Family Violence Training	Domestic Violence Crisis Service	1
Domestic and Family Violence Foundation—User Test (eLearning)	Safer Families, Community Services Directorate	2
Domestic and Family Violence Foundation Training	ACTGOV Learn	15
Domestic and Family Violence Manager Training	ACTGOV Learn	4
Domestic and Family Violence Tier 1	Women's Legal Centre	2
Domestic and Family Violence Tier 2	Domestic Violence Crisis Service	6
Essential Writing—Plain English (Words that Work)—Online	Petersen Ink	1
Executive Onboarding—Domestic and Family Violence Training	Community Services Directorate	2
First Aid Training	Allens Training	1
Fraud and Ethics Awareness—Virtual Classroom	Learning Options	2
General Awareness Information Privacy e-Learn	ACTGOV Learn	6
General Awareness Performance Management and Development e-Learn	ACTGOV Learn	9

Course title	Course provider	No. of attendees
General Awareness Work, Health, Safety e-Learn	ACTGOV Learn	3
HRIMS Demonstration	Shared Services	4
Insight—Understanding & Addressing Conscious & Unconscious Bias	PunkPD	1
Interviewing Children	Griffith University	4
Introduction to Risk in the ACT Government	ACT Insurance Authority	5
JACS Induction	Interaction Consulting Group	3
KAIGI Child Inclusive Practice Forum 2021	Family and Relationship Services Australia	1
Learning to Lead Program	Executive Leadership Australia	3
Mental Health First Aid Training	Lifeline Canberra	1
Online Training Assessment of Children Young People and Adults with Developmental Communication Needs	University of London Online	1
Psychology of Risk	ACT Insurance Authority	1
Respect, Equity and Diversity—General Awareness	Petersen Ink	1
Seasons for Healing	Mackillop Family Services Limited	2
Trauma, Development, and Neuroplasticity	EEG Learn	1
Trauma Awareness in Practice	Blue Knot Foundation	1
Trauma Informed Diversity Awareness	Blue Knot Foundation	2
Understanding Sex and Gender Diversity	A Gender Agenda	37
Vicarious Trauma	Companion House	19
Working Effectively with New and Emerging Communities	Multicultural Communities Council of Illawarra	2
Working with People with Intellectual Disability	WWild Sexual Violence Prevention Association Inc. QLD	15

## Freedom of information

Members of the public can apply for access to information under the *Freedom of Information Act 2016* (FOI Act), or they can contact the Commission before resorting to a formal FOI procedure. Applications may be submitted to the Commission via email, mail or in person:

Ph: 02 6205 2222  
[human.rights@act.gov.au](mailto:human.rights@act.gov.au)  
 ACT Human Rights Commission  
 GPO Box 158  
 Canberra ACT 2601

The JACSD disclosure log, including any FOI requests to the Commission, is available at [www.justice.act.gov.au/disclosure-log](http://www.justice.act.gov.au/disclosure-log)

The Commission reports annually to the ACT Ombudsman on:

- numbers of decisions to publish or not publish open access information
- numbers of FOI applications received where access to information was given, partially given or refused
- numbers of FOI applications decided within the time provided under the FOI Act
- numbers of requests made to amend personal information and the decisions made
- numbers of applications made to review decisions by the Commission and the results.

## Human rights

The four main objects of the HRC Act concern:

- community education, information and advice in relation to human rights
- identifying and examining issues affecting the human rights and welfare of vulnerable groups
- making recommendations on legislation, policies, practices and services affecting vulnerable groups
- promoting understanding and acceptance of compliance with the HR Act.

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

Additionally, as a public authority under section 40B of the HR Act, Commissioners and staff must act consistently with human rights and properly consider human rights when making decisions. During 2020–21, the Commission met these obligations in the following ways:

- Provided new staff with copies of the HR Act as well as brochures about Aboriginal and Torres Strait Islander cultural rights under the HR Act. Work is also underway to update the all-staff induction handbook to include information about the HR Act and section 40B public authority obligations.
- Highlighted human rights issues in proposed ACT Government policies and legislation through government consultation processes, Legislative Assembly inquiries, and responses to Cabinet submissions and draft bills. In 2020–21, the Commission provided an overall total of 63 written legal advices, comments and submissions, including formal comments on 16 Cabinet submissions, having reviewed a larger number (see Performance—Human Rights Commissioner and President).
- Intervened in three legal matters raising the HR Act, with one matter settling prior to trial. Under section 36 of the HR Act, the Human Rights Commissioner may intervene in legal proceedings that involve human rights issues when granted leave by the court. (see Performance—Human rights court interventions).
- Provided training to ACT Government agencies on their human rights obligations (see Human rights training at Bimberi, AMC).
- Delivered speeches and presentations on human rights to community groups and forums, and took part in public forums on issues relevant to the remit of each Commissioner (see Appendix A).
- Discussed a range of human rights issues with agencies as part of the Commission's community education and engagement program.
- Responded to requests from ministers and MLAs for human rights advice on specific topics.

## Risk management

The Commission's risk register is considered by Commissioners at their monthly meetings.

## Work health and safety

The Commission was not issued with any improvement, prohibition or non-disturbance notices under Part 10 of the *Work Health and Safety Act 2011*. During the reporting period, the Commission operated according to JACSD work health and safety (WHS) policies and procedures. The Commission monitored and improved on WHS by including it as a standing agenda item at monthly Commissioner meetings, reviewing, identifying and resolving potential hazards. The Commission had two elected health and safety representatives and conducted six-monthly WHS audits.

## Ecologically sustainable development

The Commission occupied premises at 11 Moore Street Canberra until 19 October 2020 when it moved into temporary premises at 5 Constitution Avenue Canberra. The Commission continued to use permanent recycling management disposal units. The Commission encourages staff to print paper copies only when necessary, use recycled paper and switch off computers and other electrical devices when not needed. The Commission is unable to report against energy consumption, transport, fuel and water.

# Financial management reporting

## Financial statements

In line with the Commission's governance and corporate support protocol with JACSD, its financial reporting is included in the JACSD annual report 2020–21.

## Capital works

The Commission did not undertake activity related to capital works in 2020–21.

## Asset management

The JACSD asset management strategies applied to the Commission and are detailed in the JACSD annual report 2020–21.

## Government contracting

Procurement selection and management processes for all Commission contracts complied with the *Government Procurement Act 2001*, *Government Procurement Regulation 2007* and subordinate guidelines and circulars throughout 2020–21. The Commission did not enter into any contracts for services, goods or works valued at more than \$25,000 during the reporting period.

## Creative services panel

The creative services panel is a whole of government arrangement for the purchase of creative services, including advertising, marketing, communications, digital and graphic design services, photography and video and media buying. The Commission spent \$18,622 through the panel. This includes advertising, printing, graphic design services and promotional services. It includes services for mandatory reporting such as the annual report; and the design and printing of hard copies of the annual report.

## Statement of performance

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

## Statement of performance

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

## Output Class 1 justice services

### Output 1.5 Protection of rights

This table details the advocacy, complaint handling, advice, community awareness raising and other services provided by the Commission to promote and protect rights, especially for vulnerable members of society.

**Table 52: Protection of rights**

<b>Output Class 1 Justice Services</b>				
<b>Output 1.5 Protection of Rights</b>				
<b>Description</b>	<b>2020–21 Original Target</b>	<b>2020–21 Actual</b>	<b>Variance %</b>	<b>Note</b>
Total Cost (\$'000)	14,294	12,737	(11)	1
Controlled Recurrent Payments (\$'000)	12,427	10,631	(14)	2
<b>Accountability indicators</b>				
<b>ACT Human Rights Commission</b>				
a High level of client satisfaction with Human Rights Commission complaints process:				
– Percentage of survey respondents who consider the process fair, accessible and understandable	75%	66%	(12)	3
– Percentage of complaints concluded within Commission standards	75%	80%	7	
b High level of community education, information and advice in relation to human rights and (i) services for children and young people, (ii) disability services, (iii) discrimination, (iv) health services, and (v) services for older people:				
– Number of community engagement activities undertaken by the Commission	70	75	7	
<b>Public Advocate of the ACT</b>				
c The Public Advocate of the ACT's actions towards achieving a caring community where the rights and interests of vulnerable people are protected:				
– Proportion of client survey respondents for whom advocacy services are provided by the Public Advocate of the ACT where a high level of satisfaction is reported	75%	63%	(16)	4
<i>Public Advocacy</i>				
Individuals, excluding guardianship clients, brought to the attention of the Public Advocate:				
– Proportion of individuals brought to the attention of the Public Advocate for whom direct advocacy is provided	25%	37%	48	5
– Percentage of clients referred to the Public Advocate for whom a review of the documentation was undertaken	75%	64%	(15)	6
<b>Victim Support ACT</b>				
d Percentage of referrals to Victim Support ACT or the Victims of Crime Commissioner—actioned within five working days	95%	99%	4	

The above accountability indicators should be read in conjunction with the accompanying notes.

The above accountability indicators were examined in accordance with the *Financial Management Act 1996*. The Total Cost and Controlled Recurrent Payments measures were not examined by the ACT Audit Office in accordance with the *Financial Management (Statement of Performance Scrutiny) Guidelines 2019*.

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

- 1 The lower than target outcome is due to lower office accommodation expenses and Contractors and Consultants and lower Employee Expenses due to several staff members changing their working arrangement from full time to part time and other unexpected vacant positions.
- 2 The lower than target outcome is due to undrawn appropriation driven by lower corresponding costs as explained in Note 1 above.
- 3 The lower than target outcome is mainly due to increased lead times between receipt and allocation of complaints due to increased number of complaints received during the reporting period which led to lower customer satisfaction.
- 4 The lower than target result reflects the complexity of situations in which Public Advocate becomes involved and the challenge of fully addressing the issues being raised. It should be noted, that when the 'somewhat satisfied' data is included, the overall rating increases to 92%.
- 5 The higher than target result is mainly due to an increase in matters requiring Public Advocate intervention, with some relating to an increase in mental health portfolio.
- 6 The lower than target result is mainly due to a significant increase in demand and complexity of mental health/forensic mental health matters brought to the attention of the Public Advocate.



# Engaging and educating the community

## President and Human Rights Commissioner

### International Human Rights Day forum

On 10 December 2020, International Human Rights Day, over 70 people attended an online forum on the right to health, COVID and pandemic responses.<sup>3</sup>

The forum was opened by Minister for Human Rights, Tara Cheyne MLA. The panel and facilitators, Commission President Dr Helen Watchirs and Health Services Commissioner Karen Toohey, discussed combating the health inequities which have been amplified by COVID, and lessons learned about providing equitable healthcare to all. Speakers included Professor Andrew Byrnes, University of NSW Law, who provided the keynote address; Emma Campbell, CEO ACT Council of Social Service Inc; Karl Briscoe, CEO National Association of Aboriginal and Torres Strait Islander Health Workers and Practitioners and Darlene Cox, Executive Director, Health Care Consumers Association of the ACT.

On the same day, Dr Watchirs published an opinion piece in the *Canberra Times* about COVID and the right to health, arguing that the ACT HR Act should be updated to expressly include the right to health, as in the Queensland *Human Rights Act 2019* (albeit in a limited form). This would guarantee more equitable accessibility, availability, acceptability and quality of healthcare for people experiencing vulnerability, by better guiding complex ethical decision-making on critical and life-saving care by health professionals.

### Human rights training at Bimberi, AMC

The human rights legal team of two lawyers delivered training for over 70 people, including four training sessions on human rights for public authorities at Bimberi Youth Justice Centre and the AMC. The team also ran a session on human rights for legal advocates for staff from ACT community legal centres.

### Law Week seminar on human rights protections

Commission President Dr Helen Watchirs was a panellist at a May 2021 Law Week forum convened by Canberra Community Law, which examined the need to scale up human rights protections in the ACT. In her address, Dr Watchirs argued that the ACT needs an accessible and affordable mechanism for human rights complaints—rather than people having to litigate in the Supreme Court to enforce their rights—like that which exists for discrimination complaints handled by the Commission. The Queensland *Human Rights Act 2019*, which came into force in 2020, has an express right to make a complaint to the Queensland Human Rights Commission and has been well utilised in practice.

During Law Week, the Public Advocate and Children and Young People Commissioner (PACYPC) also spoke at a forum on raising the age of criminal responsibility (see Leading positive systemic change).

<sup>3</sup> <https://hrc.act.gov.au/right-to-health-covid-pandemic-responses/>

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## Reconciliation: more than a word

The theme for National Reconciliation Week 2021—‘more than a word’—was embraced by the Commission as it took part in a range of internal and external events.

Commission President Dr Helen Watchirs and the Commission’s cultural adviser and community liaison officer spoke at two events: a staff forum at the Environment, Planning and Sustainability Development Directorate; and a University of Canberra forum on cultural rights and action. Commission staff took part in a film screening of *The Final Quarter* and a Mabo Day cook-off.



A Mabo Day bush tucker cook-off, held at the Commission to wrap up National Reconciliation Week 2021.

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## ANU lecture on cultural rights

In March 2021, Dr Watchirs and the Commission’s cultural adviser and community liaison officer also presented a guest lecture at ANU on rights to culture under the HR Act. The one-hour recorded lecture provided over 130 health science students with information on cultural rights in the context of health programs.



Dr Helen Watchirs, ACT Human Rights Commission President (centre) at the recording of a lecture on cultural rights for ANU health science students.

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## Advocacy on raising age of criminal responsibility

In May 2021, the Commission and more than 70 organisations around the country called on all levels of government to raise the age of criminal responsibility from 10 to 14 years. The Commission’s submission and 47 other submissions, held by the Council of Attorneys-General (CAG) for over a year, were made public as part of a media campaign coordinated by the Human Rights Law Centre. Prominent media coverage in *The Age* and *The Guardian* newspapers pointed to the extensive evidence of the urgent need for reform. The Commission commended the ACT Government for committing to reform in this area, and urged other states and the NT to follow suit. Previously, in July 2020, the Commission took part in a media campaign coordinated by Change the Record. In a joint media release, the Commission and other signatories, including key stakeholders from ACT’s youth, health, legal and community sectors, condemned the then failure of the CAG to commit to raising the age of criminal responsibility (see also Leading positive systemic change).

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## Media coverage and outreach

The Commission has a strong media presence and featured in more than 140 media reports in mainstream media outlets. Commissioners were vocal on a range of issues including the rights of detainees, and particularly women detainees; services and supports for survivors of sexual assault; prosecution rates for sexual assaults; the minimum age of criminal responsibility; family violence sentencing; child protection and external review of child protection issues; rights to health; wellbeing of children and young people; complaints about discrimination and racism; and data on complaints.

The Commission also uses social media (Facebook, Twitter and LinkedIn) to communicate with stakeholders, clients and the broader public. During 2020–21, the Commission also ran advertisements and editorial content in supplements in the *Canberra Times* and *City News* about new legislative protections for vulnerable people and the elderly; and about discrimination and making a complaint, for people with a disability.

# Discrimination, Health Services, Disability and Community Services Commissioner

The Commissioner's team works to ensure the ACT community is aware of the services available through the Commission and how the laws we administer can help them resolve issues or barriers to equal participation in the ACT community. We participate in community events, provide training and information sessions to increase community awareness of our services. We engage with key community organisations and other stakeholders to ensure easy referral pathways; and build community capacity to address individual and systemic issues by using our services.

## Anti-racism information

In response to community concerns about incidents of racism in the community, we developed and released some new *Racism. It stops with me*. ACT resources with local heroes, including Aboriginal and Torres Strait Islander community leaders and community advocates. New heroes will be added to the series in 2021–22.

In addition, two public service announcements (PSAs) were developed for broadcast on CMS Radio. The PSAs were translated into Mandarin, Cantonese, Spanish, Arabic and Tamil. They address racism and discrimination, and explain how to make a complaint. (Both PSAs were broadcast in the subsequent reporting period.) The Commission also intermittently places advertisements in local publications with anti-racism messages, encouraging people to contact the Commission to report incidents or make a complaint.



Posters from the Racism. It stops with me campaign. These ACT-specific posters were developed by the Discrimination Commissioner, in conjunction with the Australian Human Rights Commission.

## Training & information sessions

We deliver free community information sessions on discrimination law, health records and privacy, the complaint handling process and conciliation across the ACT on a regular basis and on request. In 2020–21,

the delivery of our services was constrained due to COVID, but we moved our community information sessions online, and we now offer training online as well as face-to-face with appropriate arrangements in place.

In 2020–21 we delivered the following training:

- ACT Veterinary Practitioners, complaints information session
- AMC Corrections Officers, human rights for public authorities
- ACT Policing, vulnerable people complaints training
- ACTCOSS, discrimination training
- Woden Community Service, bullying, harassment and discrimination training
- Bimberi Youth Justice recruits, human rights for public authorities
- Health Care Consumers Association, Members Forum, health service complaints training.

## Information for people with disabilities

The Commissioner developed two short animations for people with disabilities and their carers. The first animation explained legislative protections which exist in the ACT; people's rights when using services; and how to contact the Commission. The second spoke more directly to people with a disability, explaining their rights and how the Commission's complaints process works. Both animations are simple and easy for a broad spectrum of the community to understand. (Both were published in the subsequent reporting period.)

The Commission also placed advertisements in the Canberra Times and City News, encouraging people to get in touch if they had a concern about a disability service, disability discrimination, abuse, neglect or exploitation of a family member, friend or client with a disability. The first advertisements ran in June 2021, with more scheduled for the subsequent reporting period.

# Victims of Crime Commissioner

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## Community presentations

VSACT engages in a wide range of activities to raise community awareness of victims' rights and the services available at the Commission for persons affected by crime. We also work closely with a range of frontline service providers to ensure they can warmly link clients with VSACT. This year we presented to services and organisations including:

- a lecture to ANU criminology students on victim experiences and support needs
- multiple presentations at CYPs on working with families affected by DFV
- a Law for Non Lawyers presentation about the charter of rights and VSACT services at Legal Aid ACT
- a presentation about VSACT services and victim advocacy to social workers at the network student engagement team in the Education Directorate.

## Animation

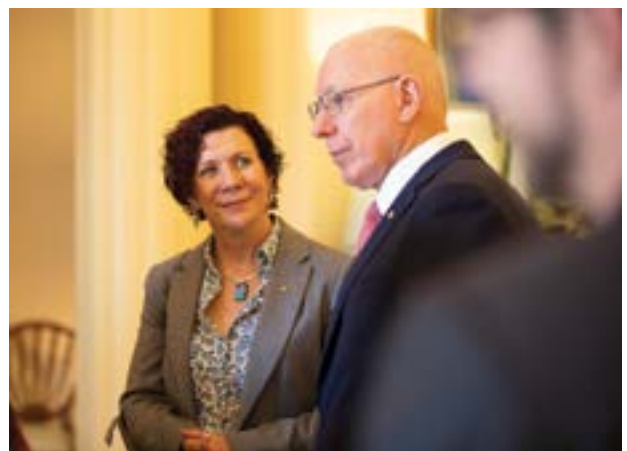
VSACT produced an animation on support for victims of crime. With its combination of image and voice-over, the animation explains the various supports and services available for people affected by crime. The animation will also be readily understood by people with low literacy.

## Public Advocate

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### 2020 Foster and Kinship Carer Appreciation event

On 27 October 2020, the PA was honoured to provide the vote of thanks to the Governor-General and his wife for their hospitality in hosting the 2020 Foster and Kinship Appreciation event at Government House. In her speech, the PA reflected on the importance of connection, and commended foster and kinship carers for their commitment to ensuring a sense of security and belonging by nurturing, supporting and encouraging the children and young people they care for.



Public Advocate and Children and Young People Commissioner, Jodie Griffiths-Cook with Governor-General, David Hurley, at the kinship carers event at Government House.

## Children's Education and Care Assurance—Difficult decision-making in complex cases

On 10 December 2020, the PA presented at the Children's Education and Care Assurance (CECA) Professional Development day. The presentation centred on difficult decision-making, particularly as it relates to responding to complex cases and maintaining integrity when facing these challenges. In particular, the PA's presentation and the discussion that followed reflected on and considered how to support the rights and best interests of the children in these circumstances.



# Children and Young People Commissioner

## Keynote address— Child-Centred Approaches to Ending Family Violence

On 18 November 2020, the Children and Young People Commissioner (CYPC) presented the keynote address for the national Child-Centred Approaches to Ending Family Violence Conference. The CYPC drew upon the findings from the consultation about children and young people's experiences of DFV to reflect on the importance of using what we hear directly from children and young people to inform service and system reform.

## Children's Week Awards 2020

In Children's Week each year, the CYPC presents an award to a child or young person whose contribution to their peers or community reflects strong social justice values. In 2020, the CYPC presented her award to Ashton Stanhope. Ashton's impressive 'sconetrepeneur' fundraising, in support of the Starlight Children's Foundation and their efforts to make hospital stays better for children and young people, made him a well-deserving recipient of the CYPC award.



Winner of the Children's Week award, Ashton Stanhope, with Children and Young People Commissioner, Jodie Griffiths-Cook.

## Canberra Grammar School— Bringing life to human rights

On 17 August 2020, the CYPC presented to Year 5 students at Canberra Grammar School as part of their inquiry into human rights and ethical decision-making. The presentation and facilitated discussion provided information about human rights within international, national and local contexts, including what happens when human rights are not upheld and how others can help. The session also provided an opportunity for the children to raise and discuss social justice matters of interest to them.

## Publications

### Now you have heard us, what will you do?

In 2019–20, the CYPC partnered with the ACT Government's Family Safety Hub to listen to children and young people's experience of DFV. In 2020–21, three products were released detailing the outcomes of this consultation. The first two publications—a video titled *My world: Insights from young people on domestic and family violence*<sup>4</sup>, and a booklet, *Now you have heard us, what will you do?*<sup>5</sup>—challenged adults to think about what we can do to effect change for children and young people affected by DFV. The third publication was a project report detailing the methodology and approach used in the consultation.

### Young Thinker Forum newsletter

In December 2020, the CYPC published the first of its YTF newsletters. This newsletter<sup>6</sup> focused on what children and young people told us about their experiences of COVID.

4 <https://www.youtube.com/watch?v=VjZRsYJ6ccM>

5 <https://hrc.act.gov.au/wp-content/uploads/2020/08/Booklet-young-peoples-experiences-of-family-violence.pdf>

6 <https://hrc.act.gov.au/childrenyoungpeople/are-you-a-child-or-young-person-with-something-to-say-become-a-young-thinker-and-tell-us-what-you-think/forum-newsletters/>

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## Events and engagements

Despite the ongoing impacts of COVID, the CYPC was able to continue to engage in community events to raise the profile of issues affecting children and young people in the ACT. Some events moved online, while others were able to be held in person. Key community engagement events included:

- Creating a short video in support of Wear It Purple Day, for screening to ACT Government schools.
- Celebrating Children's Week 2020 in a COVID-safe way by inviting two young Aboriginal Canberrans to create a story time event hosted by the CYPC online. The young Canberrans told the story of the Rainbow Serpent and provided information about their High Five program, which connects young Aboriginal and Torres Strait Islanders to culture and identity.
- Presenting to the Commonwealth DESE: an event streamed nationally to DESE staff, along with a live audience of 35 staff, about the importance of recognising the rights and participation of children and young people in policy development and service reform. The presentation saw an immediate spike in numbers of staff undertaking the department's child safe training module.
- Participating in Cranleigh School's Children's Week event, which also celebrated the International Day of People with a Disability.
- Co-hosting an event with the Institute of Child Protection Studies on reimagining child safety in the ACT using a public health approach.
- Co-hosting an online event with the Daniel Morcombe Foundation's Changing Futures program to develop and enhance collaboration and interagency communication in responding to harmful sexual behaviours in children.
- Acting as a panel member for the National Association for Prevention of Child Abuse and Neglect (NAPCAN) National Child Protection Week webinar, *Putting Children First*, looking at children and young people's rights and participation.
- Participating in various days of awareness and activism relevant to children and young people, including: International Day Against Homophobia, Transphobia and Biphobia; National Simultaneous Storytime; National Day of Action against Bullying and Violence; Nature Play Week; Ride2School Day and Youth Week.



## Appendix A:

# Commissioner's presentations

## President and Human Rights Commissioner

- Human rights of women in AMC, National Council of Women, 10 June 2021
- Aboriginal and Torres Strait Islander cultural rights and action, University of Canberra Law School Reconciliation Week public lecture, 2 June 2021
- Speech at ACT Environment, Planning and Sustainable Development Directorate Reconciliation Week event, 28 May 2021
- Public forum, Let's talk about women in prison, 26 May 2021
- Panel on scaling up human rights protections, Canberra Community Law, Law Week, 12 May 2021
- Presentation to JACSD strategic management committee, 8 April 2021
- Guest lecture, section 27 (2) of the HR Act and the Commission's cultural safety charter, ANU Health Sciences, 9 March 2021
- Gender and COVID speech, Public Sector Women in Leadership Forum, Canberra, 25 November 2020
- Introduction to the HR Act, induction of new members of the Legislative Assembly, 19 November 2020
- Commission case study, Canberra Executive Forum, 17 November 2020
- Law reform and social justice students' careers Q&A, ANU Law School, 14 October 2020
- Commission online roundtable: external merits review of child protection decisions in the ACT, 22 July 2020

### Appearances before ACT Legislative Assembly committees:

- Annual reports and estimates, 19 February 2021

### Australian Council of Human Rights Authorities Meetings (ACHRA):

- online 6–7 May 2021
- online 8–9 October 2020

## Discrimination, Health Services, Disability and Community Services Commissioner

- Elder abuse awareness day panel, Communities@Work, 21 June 2021
- Elder abuse awareness panel, Calvary Health Services, 16 June 2021
- Elder abuse day panel with Legal Aid, 14 May 2021
- Australian Council of Human Rights Agencies (ACHRA) national meeting, 6–7 May 2021
- International Human Rights Day panel on the right to health, 10 December 2020
- ADACAS supported decision making panel, 20 October 2020
- ACT LGBTIQ Ministerial Advisory Council, 28 October 2020
- ACHRA national meeting, 8–9 October 2020

## Victims of Crime Commissioner

- ACT Law Society's Family Violence and Children's Committee, Driving innovative reform: the ACT's response to domestic, family and sexual violence, 4 June 2021
- U3A and Canberra Mental Health Forum lunchtime forum, Time for Change: Progressing best practice sexual assault and family violence reform in the Territory, 1 June 2021
- ACT Women Lawyers Association Law Week event with author Bri Lee, Progressing Sexual Assault Reform in the ACT, 11 May 2021
- Launch of the ACT's Sexual Assault Prevention and Response Program, tripartisan announcement, 28 April 2021
- Aboriginal and Torres Strait Islander roundtable on reducing Incarceration, Presentation on community consultation via the ACT Disability Justice Strategy Reference Group, 24 March 2021
- ACT Law Society panel discussion, Family violence: are we there yet? 10 February 2021
- iWIN Tamil Women and Multicultural Hub panel discussion on domestic and family violence in culturally and linguistically diverse communities, 30 January 2021
- Magistrates Court information session, the Intermediary Program and Processes, 15 December 2020
- Department of Defence, marking the International Day for the Elimination of Violence Against Women, 26 November 2020
- University of Third Age, VSACT Services and justice system reform, 25 November 2020
- Zonta International Canberra breakfast meeting, Zonta's celebration of a month of saying NO to domestic violence, 3 November 2020

## Public Advocate and Children and Young People Commissioner

- 2021 ACT Youth Assembly, 25 June 2021
- EMERGE2021 Multicultural Youth Summit, 22 June 2021
- National Simultaneous Storytime, 19 May 2021
- Australian Lawyers for Human Rights Law Week panel, 12 May 2021
- Education Directorate *Writing Themselves In* forum, 1 April 2021
- Children and Family Services Reform forum, 29 March 2021
- METC end-of-year assembly, 18 December 2020
- CECA Professional development day, 10 December 2020
- Cranleigh School's International Day of People with Disability event, 3 December 2020
- Keynote address: Child-Centred Approaches to Ending Family Violence Conference, 18 November 2020
- Children's Week storytelling video, 30 October 2020
- Reimagining child safety in the ACT webinar, 29 October 2020
- Children's Week Awards, 28 October 2020
- Foster and Kinship Carer Appreciation event, 27 October 2020
- Listening and learning presentation, 20 October 2020
- Girl Guides Awards video presentation, 18 October 2020
- Listening and learning presentation, 1 October 2020
- ACT Changing Futures forum (Daniel Morcombe Foundation), 30 September 2020
- Listening and learning presentation, 29 September 2020
- External Merits Review Roundtable, 2–17 September 2020
- NAPCAN *Putting Children First* series: Children and Young People's Rights and Participation webinar, 10 September 2020
- DESE National Child Protection Week presentation and webinar, 8 September 2020
- CREATE ACT Youth Advisory Group, 7 September 2020
- NAPCAN National Child Protection Week launch, 7 September 2020
- Wear It Purple video launch, 28 August 2020
- Listening and learning presentation, 19 August 2020
- Canberra Grammar School incursion, 17 August 2020
- External Merits Review Roundtable 1, 22 July 2020

# Acronyms and abbreviations

ACAT	ACT Civil and Administrative Tribunal
ACD	advance care directive
ACTCS	ACT Corrective Services
ACTCOSS	ACT Council of Social Service Inc
AFP	Australian Federal Police
AGA	A Gender Agenda
AHPRA	Australian Health Practitioner Regulation Agency
AMC	Alexander Maconochie Centre
AMHU	Adult Mental Health Unit
ANU	Australian National University
ANZCCG	Australian and New Zealand Children's Commissioners and Guardians
ARR	annual review report
ATSIEB	Aboriginal and Torres Strait Islander Elected Body
ATSIPP	Aboriginal and Torres Strait Islander Procurement Policy
Bimberi	Bimberi Youth Justice Centre
CAG	Council of Attorneys-General
CCO	community care order
CCR	child concern report
CECA	Children's Education and Care Assurance
CKA	Comprehensive Kinship Assessments
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
COAG	Council of Australian Governments
CSD	Community Services Directorate
CYP Act	<i>Children and Young People Act 2008</i>
CYPC	Children and Young People Commissioner
CYPS	Child and Youth Protection Services

Dhulwa	Dhulwa Mental Health Unit
DPP	Director of Public Prosecutions (ACT)
DESE	Department of Education, Skills and Employment
DFV	domestic and family violence
DVCS	Domestic Violence Crisis Service
ECT	electroconvulsive therapy
ESA	Emergency Services Agency
EMPA	<i>Evidence (Miscellaneous Provisions) Act 1991</i>
FAS	Financial Assistance Scheme
FOI Act	<i>Freedom of Information Act 2016</i>
HCMG	Hoarding Case Management Group
HR Act	<i>Human Rights Act 2004</i>
HRC Act	<i>Human Rights Commission Act 2005</i>
HRC	ACT Human Rights Commission (also 'the Commission')
ISRP	Integrated Services Response Program
JACSD	Justice and Community Safety Directorate
LGBTIQ+	lesbian, gay, bisexual, transgender, intersex and queer or questioning
MAP	Management Assessment Panel
METC	Murrumbidgee Education and Training Centre
MH Act	<i>Mental Health Act 2015</i>
MLA	Member of the Legislative Assembly
NAIDOC	National Aborigines and Islanders Day Observance Committee
NAPCAN	National Association for Prevention of Child Abuse and Neglect
National Law	<i>Health Practitioner Regulation National Law 2009</i>
NDIS	National Disability Insurance Scheme
NSW	New South Wales
OICS	Office of the Inspector of Correctional Services
OV	Official Visitors
PA	Public Advocate
PACER	Police, Ambulance & Clinician Early Response
PACYPC	Public Advocate and Children and Young People Commissioner
RMP	records management program
SP Act	<i>Senior Practitioner Act 2018</i>
TRO	Territory Records Office
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VoC Act	<i>Victims of Crime Act 1994</i>
VOCC	Victims of Crime Commissioner
VoCFA Act	<i>Victims of Crime (Financial Assistance) Act 2016</i>
VSACT	Victim Support ACT
VSS	Victims Services Scheme
YTF	Young Thinker forum



