



ACT HUMAN RIGHTS
COMMISSION

ANNUAL REPORT 2022-23



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Contact officer

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A timeline of human rights in the ACT

1986	Self-government begins in the ACT.
1991	The ACT establishes the Human Rights Office (HRO) and passes the <i>Discrimination Act 1991</i> (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	The Gallop report recommends establishing an independent disability commissioner.
2003	A report on review of oversight agencies recommends the new disability commissioner sit within the HRO.
2004	The ACT becomes the first jurisdiction in Australia to enact a comprehensive human rights Act, the <i>Human Rights Act 2004</i> (ACT) (HR Act). It also establishes the Human Rights Commissioner in the HRO. The Vardon Report recommends an independent Commissioner for Children and Young People.
2005	The Office of the Community Advocate becomes the Public Advocate (PA).
2006	The HRO becomes the Human Rights Commission. The Commission includes the Human Rights and Discrimination Commissioner and the Health Services Commissioner.
2007	The new Children and Young People Commissioner; and Disability (and Community Services) Commissioner are 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 <i>Victims of Crime Act 1994</i> (ACT) (VoC Act) is amended to establish a Victims of Crime Commissioner (VOCC).
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 <i>Births, Deaths and Marriages Registration Act 1997</i> (ACT) 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 being subject to domestic or family violence; their 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 Commission is restructured to include the PA, the VOCC and Victim Support ACT.
2020	The ACT's first intermediary program begins operating, supporting vulnerable witnesses. Under amendments to the <i>Human Rights Commission Act 2005</i> (ACT) (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. The vulnerable people category includes people with a disability and certain older people. The right to work and workers' rights are also recognised under amendments to 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 and includes rights to 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. People can complain to the Commission about a justice agency not complying with victims' rights. Under the <i>Sexuality and Gender Identity Conversion Practices Act 2020</i> (ACT), it becomes an offence to perform a sexuality or gender conversion practice on a protected person. Members of the public can complain 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.
2022	Amendments to the <i>Public Health Act 1997</i> (ACT) create a regulatory framework relating to public health risks of COVID when no longer a public health emergency. The Human Rights Commissioner must be consulted about Ministerial and Chief Health Officer directions, vaccination directions and exemption guidelines in relation to whether they are consistent with human rights. In October, the ACT Government commits to establishing a human rights complaints mechanism under the HR Act. The government also promises to include the right to a healthy environment in the HR Act.
2023	A Bill to raise the minimum age of criminal responsibility is introduced to the ACT Legislative Assembly in May and referred to the Legislative Assembly Standing Committee on Justice and Community Safety (the JACS committee).

Transmittal certificate



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

30 September 2023

Dear Minister,

2022–23 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* (ACT) (Annual Reports Act), and in accordance with the requirements under the *Annual Reports (Government Agencies) Directions 2023* (ACT) (the 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 ACT Human Rights Commission has been included for the period 1 July 2022 to 30 June 2023.

I hereby certify that fraud prevention has been managed in accordance with the *Public Sector Management Standards 2006* (ACT) (repealed), Part 2.3 (see section 113, *Public Sector Management Standards 2016*).

Section 13 of the Annual Reports Act requires that you present the report to the Legislative Assembly within 15 weeks after the end of the reporting year.

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

Dr Helen Watchirs OAM
President, ACT Human Rights Commission

Compliance

The Commission must comply with the Annual Report Directions made under section 8 of the Annual Reports Act. The directions are available at 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.

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

To meet Section 15 Feedback, Part 1 of the Directions, contact details for the Commission are on page 5 and give readers the opportunity to provide feedback.

The requirements within Part 2 of the Directions are mandatory and the Commission complies with all subsections as follows:

- transmittal certificate, see page 8
- organisational overview and performance, see page 10
- financial management reporting, see page 123.

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

- Bushfire Risk Management, see the annual report of the Justice and Community Safety Directorate (JACSD)
- Human Rights, see the JACSD annual report
- Legal Services Directions, see the JACSD annual report
- Public Sector Standards and Workforce Profile, see the annual State of the Service Report
- Territory Records, see the annual report of the 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

Organisational overview and performance

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

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

Four people carried out the Commission's major functions in the reporting period:

- 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.

Remuneration for these executives is determined by the Remuneration Tribunal under section 10, *Remuneration Tribunal Act 1995* (ACT).

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 on human rights, including the common law, and make recommendations to the Minister for Human Rights and the Attorney-General about systemic human rights issues.

The following corporate documents are available on the Commission's website at hrc.act.gov.au.



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 2023

The Commission's revised operations protocol continues to guide Commissioners in fulfilling their statutory roles and providing quality services to the community.

New client services charter 2023–25

The client services charter is about how the Commission should treat its clients. It also explains what clients can do to help the Commission treat them well and how to contact the Commission if they are unhappy with a Commission decision or services. Information on the charter, and an Easy English version, are on the Commission's website. Over 2022–23, the Commission held an eight-week community consultation on the charter. Feedback from this consultation is reflected in the charter and in the listening report. More information about the consultation is also available on the ACT Government's YourSay page.

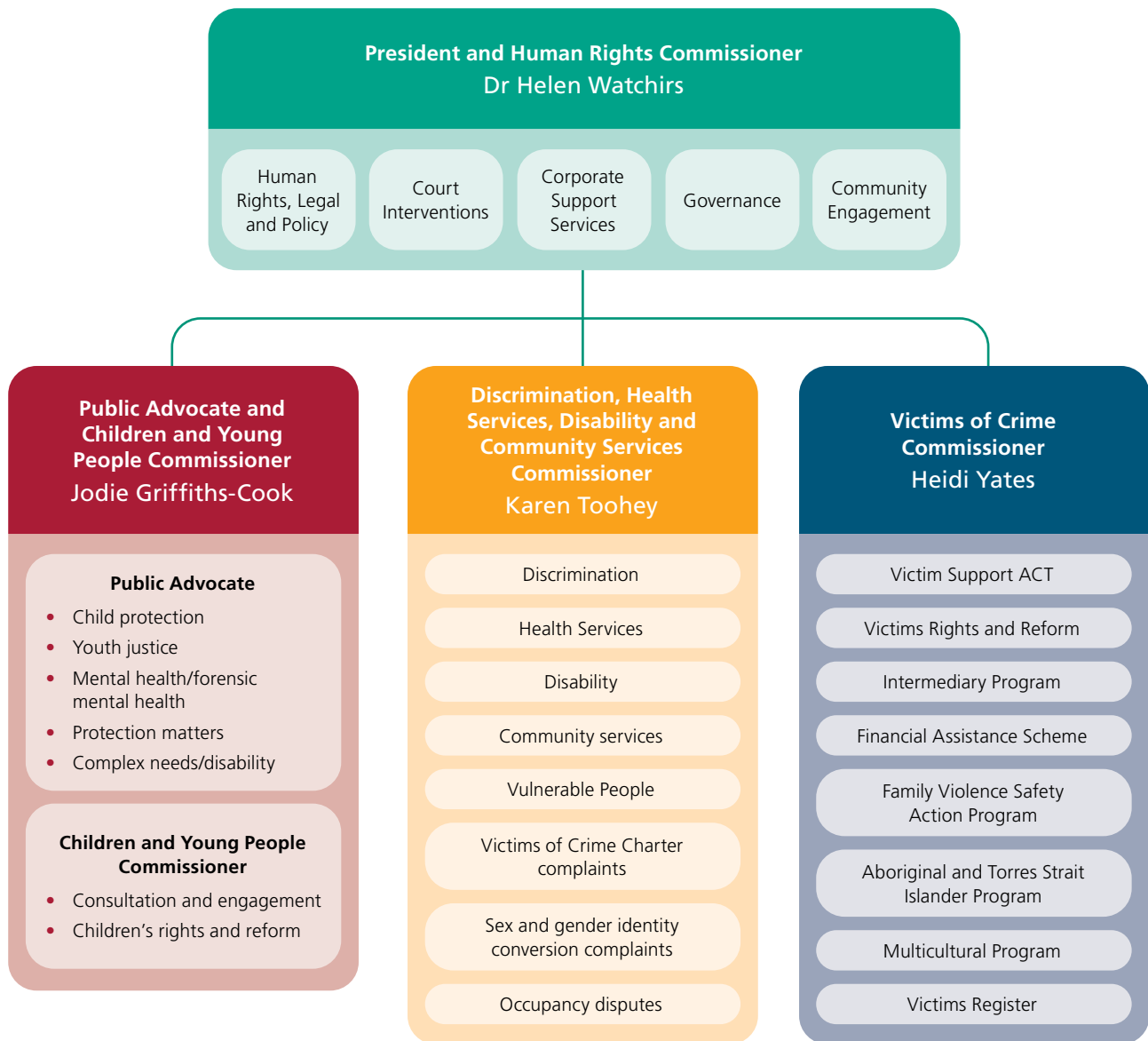
Social inclusion plan 2023–26

The current social inclusion plan (2023–26) broadens the Commission's commitment to creating an inclusive community that respects and realises everyone's rights. Previous disability action plans reflected a longstanding commitment to promoting the rights of people with disability. The current plan is broader, promoting inclusion for other groups that experience discrimination or disadvantage. These groups include Aboriginal and Torres Strait Islander people; children and young people; LGBTIQ+ people; people from multicultural backgrounds; older people; people with disability; people experiencing vulnerability due to social circumstances; and victims of crime.

Cultural safety charter, *Ngattai yeddung: Listen good*

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 structure



Corporate team support

The Commission's corporate team supported all four Commissioners and their teams in their execution of functions and provision of community services and supports. The team

- answered 8,425 calls from the general public
- processed 6,258 VSACT client counselling services invoices
- processed 1,411 invoices from other suppliers.

Staff survey

The results of a 2023 staff survey, conducted across the ACT Public Service, were pleasing, with a response rate of 59 per cent and a finding that the Commission is a high-performing organisation in the eyes of its staff. The commitment and loyalty measure increased from 73 per cent in 2021 to 82 per cent in 2023. The engagement measure increased from 75 per cent in 2021 to 86 per cent in 2023. Job satisfaction increased from 77 per cent in 2021 to 88 per cent in 2023. Other high-scoring factors were: 95 per cent goal clarity; 92 per cent team performance; 91 per cent customer service culture; 90 per cent job–skills match; 89 per cent inclusivity and 88 per cent consultation.

Areas that need improvement are work-related stress, the emotional demands of the job and the amount of work. Significant barriers were competing priorities and administrative processes. The Commission will focus on more staff wellbeing initiatives, better consultation with staff and improved workload management. This will also be enabled with more frontline staff in Commissioners' teams.

From the President and Human Rights Commissioner



President and Human Rights Commissioner,
Dr Helen Watchirs OAM.

There has been substantial progress on several key advocacy projects in the reporting period—a complaints mechanism under the *Human Rights Act 2004* (HR Act); enshrining the right to a healthy environment; raising the minimum age of criminal responsibility; implementing obligations in the ACT under the UN's *Optional Protocol to the Convention Against Torture and Cruel, Inhuman and Degrading Treatment or Punishment* (OPCAT); and removing spit hoods from places of detention.

In May 2023, during Law Week, I was honoured to deliver the annual Blackburn lecture on my reflections over the past 20 years since the Human Rights Bill 2003 was passed. We launched a new collection of 20 human rights case summaries. See page 125. It was also exciting to speak with the Parliamentary Joint Committee on Human Rights (PJCHR) about our ACT experiences and the need for a federal human rights Act. See page 29.

It has been an honour to support the leadership of Jodie Griffiths-Cook and her advocacy in working with the community and relevant service sectors to raise the minimum age of criminal responsibility; as well as an enduring collaboration with the ACT Government in persevering with the need to provide external review of care and protection matters. Over recent years, Jodie has also led major consultations with children and young people, including on sensitive matters such as racism and family violence.

I have also been privileged to work alongside Karen Toohey whose leadership has supported the sustained growth and effective management of client complaints and inquiries, alongside her well-considered analysis of matters requiring a more systemic approach. Over the years, Karen has also managed a higher number of jurisdictions in complex areas including health, discrimination, disability and community services and abuse and neglect of older and vulnerable people.

Heidi Yates has provided strong leadership for Victim Support ACT, the largest team in the Commission, since commencing with the Commission in 2018. I have been especially impressed by her resilience and dignity in preparing for and cooperating with the Board of Inquiry into the ACT criminal justice system, while at the same time conducting all the work and functions required of her as the Victims of Crime Commissioner.

I am pleased with the growth of the Commission, with more frontline workers and successful budget bids by my fellow Commissioners. We have grown from a handful of staff in 2004 to 109 in 2023. It is a tribute to Commissioners and staff that the community continues to access and trust our professional services and high-quality work, with demand at consistently high levels. Casework is still increasing in volume and complexity, especially for people experiencing vulnerability. We have seen mental health and disability issues exacerbated by inflation and by COVID in recent years.

In the reporting year, our outputs continued to grow in the following work and services:

- handled 2362 enquiries and 1147 complaints (255 complaints related to discrimination)
- drafted 113 formal written legal advices or submissions, including 33 formal comments on draft Cabinet submissions
- intervened in three human rights cases in the ACT Supreme Court
- ran 90 community engagement events, a higher number than recent years, with the end of COVID restrictions
- Victim Support ACT provided services to over 3,250 people and saw a 29 per cent increase in new clients registering for case coordination
- 1,087 applications were made to the Financial Assistance Scheme, an 86 per cent increase on last year and the largest annual increase since the scheme began
- the Public Advocate processed over 10,700 compliance documents for over 2,500 children, young people and adults.

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

- successfully advocating to raise the minimum age of criminal responsibility from 10 to 14 years of age. See page 25.
- successfully advocating for a complaints-handling jurisdiction under the HR Act, with the ACT Government committing in October 2022 to legislate in the second half of 2023
- promoting the inclusion of the right to a healthy environment in the HR Act, with the ACT Government committing to this in November 2022
- ensuring that the ACT Government's COVID public health measures had balanced restrictions on human rights that were targeted, necessary and proportionate. The Public Health Amendment Act 2022 (ACT) included provisions to consult the Human Rights Commissioner in making directions and guidelines. This consultation occurred in 2022–23.
- continuing to highlight the need for external review of care and protection decisions, with further delays in the Community Services Directorate moving to external review.

There was continuing high demand for submissions and legal advice (including COVID-related work), and we produced 113 this year, nearly double the number from two years ago. I recruited an unfunded but absolutely essential third lawyer to the human rights legal and policy team in order to fulfil my statutory mandate as both President and Human Rights Commissioner.

During the reporting period, I developed a business plan. There was good progress on achieving the plan's priorities including raising the minimum age of criminal responsibility; progressing external review of care and protection decisions; the introduction of child safe standards; advising on human rights compatibility of COVID directions and guidelines; progressing the introduction of a right to a healthy environment and a human rights complaints mechanism; and collaborating on the ACT Preventative Mechanism for the OPCAT.

I continued to appear as an intervener in Supreme Court matters. A final hearing was held involving the use of force against an Aboriginal woman in the Alexander Maconochie Centre (AMC). I was granted leave to intervene in relation to social housing tenants who were informed that they were required to relocate from homes they have lived in for many years.

I support the call by the Aboriginal and Torres Strait Islander community for a formal inquiry into their over-representation in the justice system and continue to advocate for action by the ACT Government. I also welcomed the interim Aboriginal and Torres Strait Islander Children and Young People Advocate Barb Causon, and we look forward to the appointment of an Aboriginal and Torres Strait Islander Children and Young People Commissioner as recommended by the Our Booris committee.

The Australian Government's obligation to establish a National Preventative Mechanism (NPM) under OPCAT came into effect on 20 January 2023. The Commission is one of three agencies designated to form a multi-body NPM for the ACT. In this capacity we met with the UN Subcommittee on the Prevention of Torture (SPT) in October 2022 and March 2023. I was very disappointed when its Australian visit was terminated due to non-cooperation by some states. OPCAT work involves inspecting and reporting on places of detention including the AMC, Bimberi and involuntary mental health facilities such as Dhulwa. See page 26.

I am very grateful to my three colleague Commissioners and staff for their commitment and ongoing dedication to the work of the Commission over the past seven years that I have served as President, and more than 19 years as Human Rights Commissioner.

However, it's time for a leadership change, and a new President and Human Rights Commissioner will be appointed this year.

I hope my successor is able to secure more funding from the ACT Government for human rights lawyers to implement OPCAT and perform other essential work. There have only been two human rights lawyers in my team since 2004, despite more work every single year of my term. Resourcing has also been limited in respect of corporate financial, administrative and community engagement resources, which are largely located in my team. In March 2023, the Commission engaged a consulting firm to undertake a funding and capability review, including the development of a funding model for corporate services to support the delivery of other services by the Commission. I trust that my successor and the other Commissioners will carefully consider the recommendations in the next financial year and continue to engage with the ACT Government for additional resources to support areas in the Commission which are underfunded.

It has been a genuine privilege to serve the ACT community. I look forward to seeing my fellow Commissioners and Commission staff continue to serve the community with professionalism, insight and dedication.

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



Discrimination, Health Services,
Disability and Community Services
Commissioner, Karen Toohey.

In my role as the Discrimination, Health Services, Disability and Community Services Commissioner, my team and I handle all of 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 we can identify systemic issues and try and address those through the individual complaint mechanism, through our Commission Initiated Considerations (own motion investigations) 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.

The number of complaints we receive has increased over the last five years from 507 in 2016–17 to 922 in 2020–21 and 1147 in 2022–23. 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 accessing reasonable adjustments for students 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 and people with a disability in our community.

Some notable achievements this year included:

- received 1147 complaints, up from 683 in 2018–19, a 68 per cent increase
- receiving 255 discrimination complaints
- we received 43 vulnerable people complaints raising concerns about abuse, neglect or exploitation of older people or people with a disability
- we responded to 2362 enquiries from the ACT community
- the total number of complaints from Aboriginal and/or Torres Strait Islander people was 61, which represents 7 per cent of our total complaints. This is an increase from 42 in 2021–22.
- we participated in our first preventative visit as a member of the ACT National Preventative Mechanism under the Optional Protocol to the Convention Against Torture.

I look forward to continuing this work in 2023–24 to ensure Canberra is a safe, inclusive and diverse community.

From the Victims of Crime Commissioner



Victims of Crime Commissioner,
Heidi Yates.

Across the reporting period, Victim Support ACT (VSACT) services have continued to expand to better meet the needs of victims of crime. The transfer of the Adult and Youth Justice Victims Registers into VSACT has been an important development to ensure Victims' Charter rights to information, participation and support can be upheld at every stage of the justice process. The registers facilitate the provision of information and support to victims in relation to management of an offender's sentence. They also support victim participation in parole hearings and other decisions made about the offender; and assist victims to make practical decisions about their safety. I am pleased to report that there has been a 50 per cent increase in the overall number of people registered on the Adult Victims Register since it was transferred from ACT Corrective Services (ACTCS) to VSACT in the first half of the reporting period.

In the 2022–23 budget, VSACT also received resources to transition the Family Violence Safety Action Pilot (FVSAP) into a continuing program. In collaboration with the Domestic Violence Crisis Service (DVCS) and the Office for Family, Domestic and Sexual Violence, the FVSAP improves the safety of victim-survivors who are at serious risk of harm or lethality. It achieves this by bringing ACT Government agencies and the NGO sector together to collaboratively identify, assess and respond to high-risk domestic and family violence matters, with a focus on perpetrator accountability. In the reporting period, FVSAP engaged with 274 matters, involving 315 children and young people.

The ACT Intermediary Program continued to operate 24/7 to provide witness intermediaries at police interviews and in court matters. In December, the program won the ACT Chief Minister's inaugural Sue Salthouse Award for Championing Human Rights, which recognised the team's ground-breaking work facilitating the communication of children and adults with communication difficulties. In June, the program also received additional resourcing to expand its services to working with vulnerable accused, many of whom have their own histories of trauma and victimisation. The ACT will be the first Australian jurisdiction to undertake intermediary work with this cohort.

Demand for VSACT's core services also continued to grow. Overall, VSACT provided services to over 3,000 people. This included a 29 per cent increase in new clients registering for case coordination compared to last year (875 clients up from 677). VSACT has experienced escalating demand for case coordination across the last 4 reporting periods, with a 110 per cent increase in clients accessing case coordination between 2017–18 and this year. Since May 2023, VSACT can now assist families who have lost loved ones because of a motor vehicle accident involving a criminal offence. This includes crisis counselling, case coordination and ongoing therapeutic support under the Victims Services Scheme. I recognise that this reform was the direct result of tireless advocacy undertaken by community members who have, themselves, struggled to access sufficient support and advocacy after the death of a loved one. I thank these individuals and families for their work, which will make it possible for other families to receive wraparound support at times of immense loss.

Completing its seventh year of operation, the Victims of Crime Financial Assistance Scheme (FAS) received 1087 applications in the reporting period, compared to 584 in 2021–22. This represents an 86 per cent increase, the largest annual increase since the scheme commenced. In addition, FAS has experienced the biggest single increase in payments made to eligible victims, with \$9.4 million this year, compared to \$2.9 million last year. FAS continues to work to identify how to streamline systems and processes to reduce the time it takes to assess an application.

Across the second half of the reporting period, the Board of Inquiry into the ACT Criminal Justice System has facilitated valuable public conversations about the criminal justice process, including the importance of justice agency transparency and accountability. The Board's public hearings have provided an important opportunity to highlight victims' rights to support, advocacy and financial assistance—including during police investigations and at trial—in recognition that victim-survivor engagement with the justice system can be a complex, protracted and harrowing experience. The VSACT team and I remain committed to working with our justice agency partners to ensure that the rights of all people engaged with the criminal justice system are appropriately balanced. To this end, we look forward to working with Government to implement the Board's final recommendations, and to our continuing work on the Sexual Assault Prevention and Response review of sexual assault cases reported to ACT Policing (ACTP) that have not progressed to charge.

I extend a warm thank you to the VSACT and Intermediary teams for their tireless work and to my fellow Commissioners for their ongoing support. I recognise and thank Dr Watchirs for her extraordinary contribution to the Commission over 19 years and wish her all the very best for her forthcoming work. I also take this opportunity to recognise and thank all victim-survivors of crime who, in a valuable act of public service, contribute their thoughts and experiences to improving VSACT services and the justice system. Our justice system will provide better outcomes for all when its design and operations are informed by a diversity of community voices.

From the Public Advocate and Children and Young People Commissioner



Public Advocate and Children and Young People Commissioner, Jodie Griffiths-Cook.

In my two roles of Public Advocate and 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.

The nature of my role in protecting and promoting the rights of people brought to the attention of my office is both challenging and rewarding. 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 face as a community have been evident in the circumstances of those people brought to the attention of my office over this past year.

The 2022–23 reporting period saw sustained growth in demand for public advocacy. In this past year:

- 2,506 people were brought to the attention of my office.
- 10,728 compliance documents were received and processed.
- we provided direct advocacy for 683 children, young people and adults.
- as part of our oversight responsibilities, we reviewed documentation associated with 2,015 children, young people and adults.

As Children and Young People Commissioner, the need to ensure children and young people have access to timely and relevant information about their rights is a key function of my work. We use a variety of communication mediums to tailor key messages in ways that enable children and young people to receive information in a style, format and language that is accessible to them.

To meet this need over the past year, we:

- consulted 645 children and young people face-to-face.
- received responses from 2,130 children and young people through surveys or polls.
- received six Young Thinkers submissions.
- hosted 11 Young Thinkers at Work (work experience) placements.
- engaged our inaugural Youth Advisor.
- produced 12 newsletters that reached over 500 recipients.
- made over 110 social media posts.
- reached over 400 Instagram accounts.

Wearing both my statutory 'hats', I contributed to numerous conversations over this past year in the interests of shaping reforms, including those that involve legislative amendment. In this regard, I contributed to shaping reforms associated with raising the minimum age of criminal responsibility, implementing the next tranche of child and family services reform, and commencing operations as part of the ACT OPCAT National Preventive Mechanism, amongst others.

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.

The challenges of responding to increased demand and providing services within a complex and dynamic environment requires flexibility, innovation and the ability to pivot as needed to respond to the circumstances of children, young people and adults brought to the attention of my office. 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 experience vulnerability as a result of their situation or condition. I would also like to acknowledge and thank Dr Helen Watchirs for her support of me and the work of my team over the past seven years, and to wish her well for the future.

I feel honoured to have the opportunity to continue delivering on my commitment to the important work of my office. I am proud of our accomplishments in 2022–23 and 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.

Performance

HUMAN RIGHTS

Provided a total of 113 written legal advices, comments and submissions

113



more than **200 people** attended our human rights training sessions



intervened in **three** Supreme Court matters

VICTIMS OF CRIME



...provided services to more than **3250** victims of crime

29%

increase in new clients registering for case coordination



between 2017-18 and 2022-23 there was a 110 per cent increase in clients accessing case coordination

110%



1,087 applications were made to the Financial Assistance Scheme, an **86 per cent increase** on last year & largest annual increase since scheme began

86% INCREASE

COMPLAINTS



1147 complaints and **2362** enquiries



43

vulnerable people complaints



85%

of parties said the complaint process was fair



77%

said the process was accessible



760 health service complaints

7% of complaints from Aboriginal and Torres Strait Islander people, up from **4.6%** last year



CHILDREN & YOUNG PEOPLE COMMISSIONER



Consulted **face-to-face** with **over 645** children and young people

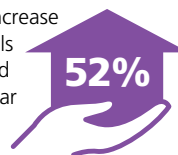
Over **2,100 children** and **young people** responded to our polls and surveys



Hosted 11 Young Thinkers at Work

INTERMEDIARY PROGRAM

52% increase in referrals compared to last year



375 referrals, including **322 from ACT Police**

99% of referrals to the program were matched and **69%** of referrals were matched with an intermediary in under 24 hours



51% of police referrals related to sexual assault and **49%** of referrals related to physical assault, violent offences or homicide

PUBLIC ADVOCATE



Processed over **10,700** compliance documents for over 2,500 children, young people and adults

Reviewed documentation for over **2,000** children, young people and adults, and provided **direct**



advocacy for over **680 people**



Achieved **78%** stakeholder satisfaction

CASE STUDY

Raising the minimum age of criminal responsibility

In May 2023, the ACT Attorney-General, Shane Rattenbury MLA, introduced historic reforms to raise the age of criminal responsibility in the ACT. The Commission continued to engage extensively throughout 2022–23 in the development of this landmark reform.

The Commission views raising the minimum age of criminal responsibility as a vital investment in the safety, wellbeing and human rights of the community into the future. Raising the age seeks to ensure that priority is given to the diversion of children whose behaviours present a risk of harm to themselves or others. The proposed reforms aim to replace counterintuitive youth justice responses with a multidisciplinary and whole-of-system approach that prioritises support for young children (and their families) at the earliest sign of harmful behaviour.

As members of the Minimum Age of Criminal Responsibility Reference Group, Commissioners contributed advice at key stages of the design of the legislative and service framework required to support raising the age in the ACT. The Commission's joint advice leveraged the diverse strengths, insights and expertise of each Commissioner, their staff and relevant stakeholders, to make constructive recommendations aimed at promoting the human rights and welfare of all people affected by these significant and complex reforms.

- The President and Human Rights Commissioner closely examined the proposed reforms with an eye to their consistency with the human rights protected in the HR Act.
- The Public Advocate and Children and Young People Commissioner, having liaised closely with a range of government and non-government stakeholders, sought to ensure the reforms would establish an adequate service response to effectively serve the needs of children whose behaviours might harm themselves or others.
- The Victims of Crime Commissioner focused on ensuring that the voices of victims remain heard and their rights to participation, consultation and information to protect their safety are respected and upheld by any new system response.
- Drawing on her visibility of relevant complaints and enquiries, the Discrimination, Health Services, and Disability and Community Services Commissioner offered insight into how the proposed model could best operate in practice and in conjunction with other legislative frameworks.

In May 2023, the Justice (Age of Criminal Responsibility) Legislation Amendment Bill 2023 was introduced in the ACT Legislative Assembly to raise the age of criminal responsibility in the ACT; initially to 12 years of age, and then to 14 years of age within 2 years.

In June 2023, the Commission made a joint submission to the ACT Legislative Assembly Standing Committee on Justice and Community Safety's inquiry into the proposed reform. Though strongly supportive of the overall reform and approach the submission expressed continuing concern that carving out certain offences, under an older age of criminal responsibility, is incompatible with human rights.

The President and Human Rights Commissioner, Public Advocate and Children and Young People Commissioner and Victims of Crime Commissioner appeared before the committee in mid-June. Their evidence emphasised the significant benefits of raising the age, for both children and the safety of victims and the community; the importance of developing new therapeutic supports and processes; and the counterintuitive and discriminatory effects of maintaining a criminal justice response for certain offences.

A number of the Commission's recommendations, especially with respect to legislation governing victims of crime, were endorsed in the committee's final report, which also recommended raising the age of criminal responsibility to 14 years of age. The Commission looks forward to the Bill being debated in the coming months.

CASE STUDY

OPCAT

The ACT Human Rights Commission is designated as one of the three agencies responsible for monitoring detention settings in the ACT under the UN's *Optional Protocol to the Convention Against Torture and Cruel, Inhuman and Degrading Treatment or Punishment* (OPCAT). OPCAT creates a system of regular, independent visits to places of detention, across the country, by a National Preventive Mechanism (NPM). By visiting places of detention that are outside the public's gaze, the NPM helps to ensure that all people who are deprived of their liberty are treated humanely. Alongside the Inspector of Correctional Services and ACT Ombudsman, the Commission forms part of the multi-body NPM for the ACT.

The President and Human Rights Commissioner, the Public Advocate and Children and Young People Commissioner, and Discrimination, Health Services, and Disability and Community Services Commissioner have together guided the Commission's implementation of this new role. To ensure a degree of functional separation from the more reactive work of the Commission (eg complaints, individual advocacy), an internal working group of staff across various teams was convened to coordinate OPCAT work and conduct preventive visits as part of the ACT NPM.

In implementing OPCAT, the Commission and other ACT NPM agencies have faced challenges arising from limited resourcing available both to implement and undertake this new role. During the reporting period, Commissioners and Commission staff have contributed to the work of the ACT NPM by reviewing and finalising draft communications material (ie factsheets) about the role of an NPM under OPCAT, and legal policy submissions to consultations and inquiries. Legal staff also reviewed existing legislation against the minimum requirements and powers required under OPCAT to help identify required reforms to ACT laws.

Beginning on 16 October 2022, the UN Subcommittee on the Prevention of Torture (SPT) undertook its first visit to Australia. Commissioners and staff met with the SPT twice alongside other agencies designated to form part of the Australian NPM. Following suspension of the SPT's visit on 23 October 2022, Commissioners and staff were fortunate to be trained by SPT members in the key principles and methodology of preventive visits under OPCAT.

Throughout the reporting period, Commissioners and staff continued to meet regularly with other ACT NPM agencies, as well as with designated NPM agencies across Australia, to progress a coordinated approach to implementing OPCAT; these meetings were convened by the Commonwealth Ombudsman. In August 2022, the President and Human Rights Commissioner and Commission staff attended the first National OPCAT Symposium, hosted by the Australian Human Rights Commission at RMIT in Melbourne, to discuss best-practice approaches to implementation. Commission staff also participated in several information and training sessions, including with experts from the Association for the Prevention of Torture, the Norwegian NPM, the United Kingdom NPM and Diagrama, among others.

In June 2023, the Commission (on behalf of the ACT NPM) piloted a preventive OPCAT visit to a closed mental health facility as a familiarisation exercise for staff and to inform ongoing discussions about potential approaches to preventive visits in the absence of dedicated resourcing. In late June 2023, a human rights legal adviser shadowed, on the Commission's behalf, a two-day preventive OPCAT visit to the Australian Federal Police City Watchhouse by the Commonwealth NPM Coordinator and ACT Ombudsman.

President and Human Rights Commissioner

Highlights

HUMAN RIGHTS

Provided a total of 113 written legal advices, comments and submissions

113



more than **200 people** attended our human rights training sessions



intervened in **three** Supreme Court matters

UNDRIP

The Commission's engagement with the community has been important in informing advocacy for implementation of obligations arising from UNDRIP. In March 2023, the Commission told a Senate Inquiry that UNDRIP should be included within the federal human rights legislative scrutiny framework, and that a national action plan is needed to enable Aboriginal people to self-determine and meet the needs of their own communities. In its written submission, the Commission said that recognising the unique and distinct cultural rights of Aboriginal and Torres Strait Islander peoples in s. 27(2) of the ACT HR Act had shaped ACT Government policy and influenced decision-making, including the outcome of litigation against government agencies. The Commission's view is that further national reform to fully implement rights under UNDRIP is vital to supporting Aboriginal and Torres Strait Islander sovereignty, self-determination and equal inclusion in Australian society.

Working with the Aboriginal and Torres Strait Islander community

The Commission continues in its listening journey, implementing its cultural safety charter, *Ngattai yeddung: Listen good*. The charter outlines the Commission's commitment to working with Aboriginal and Torres Strait peoples. The cultural safety reference group met in September 2022 and continued to provide valuable guidance on implementation of the charter and insight into areas of significance affecting Aboriginal and Torres Strait Islander people in the ACT. The reference group discussed issues of justice, racism, matters affecting Aboriginal and Torres Strait Islander children in the ACT and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) including cultural rights and developing broader community understanding of UNDRIP.

The cultural safety charter internal working group also met during the reporting period. A presentation and discussion on the Colonial Frontier Massacre Digital Map Project was held for Commission staff in May 2023. This presentation provided an overview of the map, the massacres that occurred, the frontier wars, and the link to the context for current issues that continue to impact Aboriginal and Torres Strait Islander peoples.

Reviewing Cabinet submissions and other human rights consultations

In 2022–23, the Commission provided a total of 113 written legal advices, Cabinet comments and public submissions. This continues the trend of an increased number of legal advices and written submissions being generated each year by the small Human Rights Law and Policy Team under the leadership of the President and Human Rights Commissioner.

A particular strength of the Commission is its early engagement with the ACT Government in development of legislation, while retaining the Commission's statutory independence. The Commission has a strong record of providing trusted and independent human rights scrutiny and advice about whether proposed laws and policies are consistent with the HR Act and other human rights standards. A key function in this respect is to review legislative proposals before they are considered by Cabinet. This confidential consultation means comments made by the Commission at these early stages are not made public, although if concerns remain, the Commission's independent role means any views can be articulated openly at later stages in the process. In addition to formal comments to Cabinet, the Commission engages in regular consultations with various ACT agencies. The Commission was generally satisfied

that draft legislation approved by Cabinet achieved human rights compatibility by the time it was presented to the Legislative Assembly in the reporting period.

The Commission also makes submissions to public inquiries and consultations as well as in response to requests by agencies in relation to certain policy proposals. Key submissions are summarised below and a full list of publicly available submissions is available at hrc.act.gov.au/resources/submissions

Human rights complaint pathway

The President and Human Rights Commissioner welcomed the ACT Government's announcement in October 2022 that changes would be made to the HR Act to enable human rights complaints to be made to the Commission and for the Commission's confidential conciliation process to be used to assist to resolve the concerns.

The Commission has advocated for over 15 years for the HR Act to be amended to include an accessible human rights complaints pathway, noting both Victoria and Queensland have such mechanisms. The model called for by the Commission was for a process that parallels the discrimination jurisdiction. The Commission had advocated to be able to receive complaints and to use the Commission's conciliation processes to assist to resolve them, with an ability to then refer complaints that cannot be resolved to the ACT Civil and Administrative Tribunal (ACAT).

On 20 October 2022, the ACT Government committed to establishing an accessible complaints mechanism under the HR Act. The model announced commits to the Commission being able to receive and conciliate complaints, though without being able to refer complaints on to ACAT. The Commission's ability to receive and conciliate complaints is a landmark improvement to the human rights framework in the ACT. People will no longer have to go the Supreme Court if they believe their human rights have been breached. The Commission hopes that the new human rights complaints pathway will bring public authorities and service providers together with the individuals affected by their policies and decisions, and then come up with restorative responses to those concerns.

Right to a healthy environment in the ACT

Between July and early September 2022, the ACT Government hosted an eight-week public consultation about recognising the human right to a healthy environment in the ACT. This followed the UN Human Rights Council's landmark recognition of the right in October 2021.

In September 2022, the Commission made a detailed submission confirming its strong support for recognising the right to a healthy environment in the ACT in the HR Act. The submission outlined the likely benefits of considering environmental impacts through a human rights lens, including by centralising them in decision-making across all activities of the ACT Public Service. It also offered guidance about how the right could be best reflected in local laws to align with how it is understood in international human rights law. Importantly, the Commission's submission emphasised the importance of recognising the profound, intangible and spiritual connection to Country that Aboriginal and Torres Strait Islander peoples share and understanding a healthy environment in accordance with those cultural understandings.

In November 2022, the Minister for Human Rights announced the ACT Government's commitment to introducing the right to a healthy environment in the HR Act within this term of government. Throughout the reporting period, the President and Human Rights Commissioner participated in an Inter-Directorate Committee about integrating the right to a clean, healthy and sustainable environment in the ACT's human rights framework. In this role, she has provided expert advice about the content and scope of the right to a healthy environment to assist other agencies to conceptualise the effect of recognising the right within the ACT. The Commission looks forward to the introduction of this amending legislation in the coming year.

The Commission's annual International Human Rights Day event in December examined the right to a healthy environment. See page 125.



The forum on the right to a healthy environment — from left ACT Human Rights Minister, Tara Cheyne, Dr Helen Watchirs, Melanie Montalban, Managing Lawyer, ACT Environmental Defenders Office, Dr Sophie Lewis, ACT Commissioner for Sustainability and the Environment and Mary Mudford, Assistant Director of Traditional Custodian Engagement, ACT Environment and Sustainability Directorate.

Welcome end to the use of spit hoods

It is the view of the Commission that spit hoods pose a serious risk of suffocation, are not the least restrictive means necessary to detain people and their use by force is neither reasonable nor proportionate.

There is a lack of disaggregated data on how spit hoods have been used in the ACT. This led to the Commission having concerns about when and how often they might be being used on vulnerable cohorts such as young people, people with disabilities and Aboriginal and Torres Strait Islander people. There is evidence from other jurisdictions that spit hoods have been used disproportionately on Aboriginal and Torres Strait Islander people.

In August 2022, the Commission made a public statement calling on the ACT Government to take urgent action to ban spit hoods on detainees after it was revealed a spit hood was used on a child in the ACT watchhouse.

In October 2022, the Commission raised the issue of spit hoods with the SPT during their visit to Canberra—including whether their use amounts to inhumane and degrading treatment in contravention of the HR Act and international human rights principles.

In January 2023, the Commission met with the Chair of the Operational Safety Commission of the Australian Federal Police (AFP), who conducted an internal review of the use of spit hoods in the AFP. In March 2023, the Commission wrote a submission to the AFP outlining the human rights concerns with using spit hoods and

recommending the AFP immediately cease the use of spit hoods on vulnerable cohorts.

Following sustained advocacy on this issue, in April 2023, the AFP announced they would no longer use spit hoods on people in police custody. This decision was welcomed by the Commission which had been calling on the ACT Government and ACT Policing (ACTP), an arm of the AFP, to stop the use of spit hoods.

Federal human rights framework inquiry

In May 2023, the President and Human Rights Commissioner appeared before an inquiry into Australia's human rights framework by the federal Parliamentary Joint Committee on Human Rights (PJCHR). Dr Watchirs told the inquiry that the ACT HR Act had genuinely improved the quality of ACT lawmaking and that there is nothing to fear from introducing a national human rights Act. Dr Watchirs outlined various ways in which the HR Act has helped authorities to balance government interests with those of citizens, has improved the development of legislation and has been used in advocacy and litigation to provide better outcomes for those members of the community experiencing vulnerability. She also discussed how failures such as Robodebt, aspects of the Northern Territory intervention, and the prosecution of former ACT Attorney-General Bernard Collaery may have had different outcomes if an effective human rights legal framework and culture had been in place at the federal level.

Following Dr Watchirs' appearance, the Commission also made a written submission that further detailed the Commission's support for the model proposed by the Australian Human Rights Commission in its *Free and Equal* report as a basis for a future federal human rights Act. The Commission's written submissions outlined learnings from almost 20 years of being a human rights jurisdiction, including case studies and recommendations based on those experiences for any future federal model. The inquiry is expected to report back to the federal Attorney-General by March 2024.

Residential tenancy reforms

Although the Commission welcomed legislation to end no cause evictions for private tenancies and introduce improvements to minimum rental standards, the Commission was unable to support the first public exposure draft of the Bill introducing these important changes because the Bill also contained concerning human rights implications for social and community housing tenants. The Commission made a robust public submission in September 2022 highlighting the relevant concerns.

Following this submission, the ACT Government worked closely with the Commission and important changes were subsequently introduced. The legislation now provides better protections for the human rights of tenants facing evictions from social and community housing tenancies. This includes the introduction of a test to ensure that, before terminating a social or public housing tenancy, the tribunal must consider whether that termination is 'reasonable and proportionate': a balancing test which better enables consideration of an individual's circumstances and, therefore, is more compatible with human rights standards. The Commission continues to retain a keen interest in the human rights of social housing tenants and occupants.

Independent Review of the Integrity Commission Act 2018

In March 2023, the President and Human Rights Commissioner made a submission to the Independent Review of the *Integrity Commission Act 2018*. The Commissioner's advice focused significantly on the human rights implications of empowering the ACT Integrity Commission to intercept and access telecommunications information. While not opposing the proposal, the submission identified several issues of concern in relation to oversight of access to telecommunications metadata and the importance of a Public Interest Monitor to contest applications for interception warrants.

In June 2023, the Commissioner made a further submission to the Independent Review of the *Integrity Commission Act 2018* in response to several discussion papers on proposed reforms. This supplementary submission outlined the Commissioner's positions on select amendments, including about how long a person has to provide required information, how privilege is determined and whether former ACT public servants should be permitted to work for the Commission.

Penalties for minor offences and impacts on vulnerable people

In April 2023, the Human Rights Commissioner and the Discrimination, Health Services, and Disability and Community Services Commissioner, provided a joint submission to the Legislative Assembly Standing Committee on Justice and Community Safety's Inquiry into Penalties for Minor Offences and Vulnerable People. In their submission, the Commissioners cautioned against expanding the ability to issue on-the-spot fines to offences that would require legal findings (eg of intention, dishonesty, recklessness). They also reiterated the need for appropriate means of collecting and publishing demographic data about fine recipients to identify any disproportionate impacts on groups experiencing vulnerability and barriers to hardship supports (eg waivers, payment plans etc). In June, the Human Rights Commissioner and a legal adviser appeared before the committee to give evidence.

Modern slavery

In May 2023, the ACT Legislative Assembly Standing Committee on Public Accounts undertook an inquiry into a private member's Bill sponsored by Ms Jo Clay MLA. The Modern Slavery Legislation Amendment Bill 2023 sought to combat risks of modern slavery arising out of activities in the ACT by requiring ACT Government agencies and tenderers to identify and report risks of modern slavery in their respective activities. The Bill also proposed to establish a dedicated Anti-Slavery Commissioner within the ACT Human Rights Commission.

The Commission provided a joint whole-of-Commission submission outlining the significant human rights implications of modern slavery practices; and outlining its strong support for effective measures to identify and prevent modern slavery in the ACT or ACT Government supply chains and activities. The submission outlined existing frameworks that may be updated to require greater attention to modern slavery risks in procurement and highlighted the need for cross-government communication about modern slavery concerns. Rather than resourcing a separate Anti-Slavery Commissioner at this time, the Commission endorsed a collaborative

oversight model, bringing together diverse stakeholders to ascertain the extent of modern slavery risks within the Territory as an interim measure.

The President and Human Rights Commissioner, and the Discrimination, Health Services, and Disability and Community Services Commissioner gave evidence before the committee in June 2023. The committee's report, published in late June, adopted the Commission's recommendation that the ACT Government establish a collaborative oversight body for the prevention of modern slavery in the ACT.

Court interventions

The Human Rights Commissioner may intervene in legal proceedings that involve the HR Act if granted leave by the court. In 2022–23 the Commissioner was an intervener in two proceedings in the Supreme Court that were already in process; and also intervened in a further three proceedings. The three new proceedings were brought against the Commissioner for Social Housing in the ACT and were jointly heard.

Williams v Director-General of the Justice Community Safety Directorate & Ors

The Human Rights Commissioner received leave to intervene in these proceedings brought by Aboriginal woman Julianne Williams, who claimed her human rights were breached while she was detained at the AMC. In early March 2023 a five-day hearing was held in the case. A further hearing for closing submissions was then held on 30 May 2023.

The matter related to the conduct of the defendants in refusing Ms Williams' request for funeral leave to attend her grandmother's funeral, and the conduct and policies of a subsequent and traumatic use of force leading to a strip search. The Human Rights Commissioner made submissions to assist the court regarding the content of the human rights engaged, including the distinct right to culture for Aboriginal and Torres Strait Islander people in section 27(2) of the HR Act. The Commissioner also commented as to how human rights might be appropriately limited in a detention setting including a requirement that such limits must be proportionate and 'set by law'. The Commission's submissions referred to relevant domestic and international case law and the case is now waiting for a decision.

Public housing tenants against the Commissioner for Social Housing

The Commissioner received notice of three Supreme Court cases brought by tenants of Housing ACT against the Commissioner for Social Housing and related defendants. The tenants claimed that decisions had been made which were incompatible with their human rights and that there was a failure to give proper consideration to human rights in making the decisions and in the relevant processes. The cases related to decisions made by Housing ACT to require the tenants to vacate homes they had lived in for lengthy periods of time as a part of Housing ACT's growth and renewal program.

The Commissioner received leave to intervene as a party in these proceedings on 3 March 2023.

Discrimination, Health Services, Disability and Community Services Commissioner

Highlights



The Commissioner has responsibility for:

- handling all complaints received by the Commission and providing a free information service to the ACT community about the complaint handling process and complaint jurisdictions administered by the Commission, outlined below.
- 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*, the *Residential Tenancies Act 1997* and the *Sexuality and Gender Identity Conversion Practices Act 2020* and the victims of crime charter of rights
- improving service provision and outcomes for people protected by these laws
- using Commission-initiated consideration (CIC) powers to address systemic issues
- contributing to legislative and policy development across the jurisdictions administered by the Commissioner.

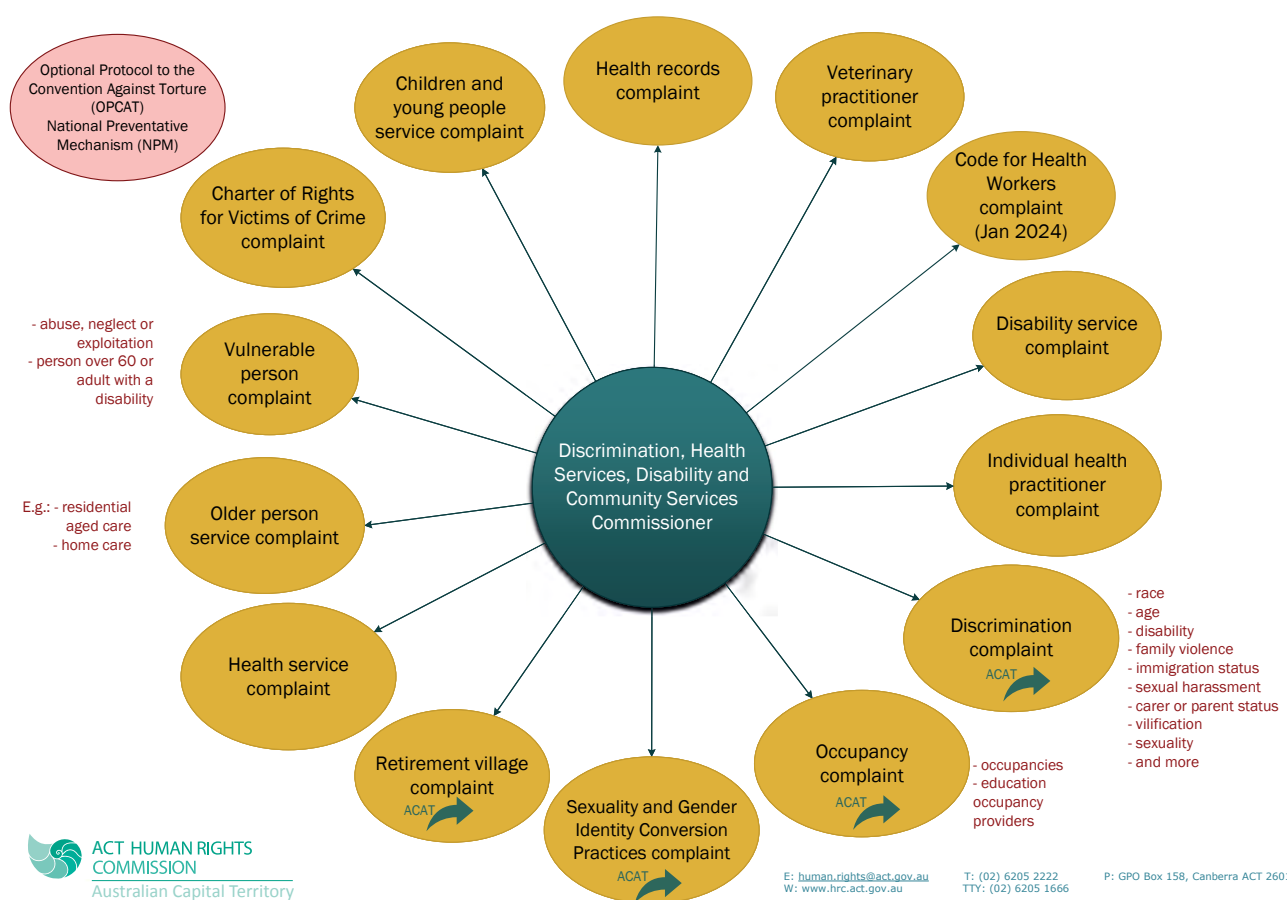
During the reporting period we were able to accept complaints about the following:

- discrimination, vilification and sexual harassment complaints under the Discrimination Act
- health services complaints
- complaints about access to health records under the Health Records (Privacy and Access) 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 of crime charter of rights
- occupancy dispute complaints
- gender and sexual identity conversion practices complaints
- code of conduct for health workers (commences January 2024).

In 2022–23, the Discrimination, Health Services, Disability and Community Services Commissioner (DHSDCSC) received 2362 enquiries and 1147 complaints. We finalised 1191 complaints (1114 in 2021–22).

The DHSDCSC team provide an accessible, timely and impartial complaint information service and complaint handling service to the ACT community.

We provide information through our enquiries function about our legislation, options for resolving a concern, information about the complaint handling process and conciliation, and referral options where we are unable to assist a person with their concerns.



Jurisdictions of the Discrimination, Health Services, Disability and Community Services Commissioner.

Table 1: Enquiries received, four-year comparison

Jurisdiction	2022–23	2021–22	2020–21	2019–20
Children and young people	73	59	50	45
Conversion practices (commenced March 2021)	1	4	1	
Disability	18	33	28	52
Discrimination	351	479	387	373
Health services	567	580	520	595
Occupancy dispute (commenced March 2021)	4	8	3	
Older people and retirement villages	11	17	8	13
Out of jurisdiction	1235	774	756	452
Unregistered health practitioner	1	3	1	
Victims of crime (commenced January 2021)	49	21	23	33
Vulnerable people (commenced May 2020)	52	50	42	3
Total	2362	2028	1819	1608

Note: enquiries are contacts with the DHSDCSC team by email, phone, in-person meeting, text and social media direct messaging, and generally seeking information about the laws administered by the Commission, the complaint process, and how the Commission can help.

Table 2: Complaints received, four-year comparison

Jurisdiction	2022–23	2021–22	2020–21	2019–20
Children and young people	35	39	21	33
Disability services*	6	9	8	9
Discrimination	255	284	218	208
Health services**	760	775	640	574
Occupancy dispute (commenced March 2021)	5	6	3	
Older people and retirement villages	9	4	6	3
Victims of crime charter (commenced January 2021)	34	5	4	
Vulnerable people (commenced May 2020)	43	42	22	2
Total	1147	1164	922	829

* The National Disability Insurance Scheme (NDIS) Quality and Safeguards Commission commenced operation in the ACT on 1 July 2019. The ACT Human Rights 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 and disability discrimination under our Discrimination Act provisions.

** Including 276 complaints notified by the Australian Health Practitioner Regulation Agency (Ahpra) and 4 Veterinary Practitioners Board complaints.

High satisfaction with complaint handling service

The Commission measures satisfaction with its complaint process by asking parties to complete an evaluation form when complaints are closed. In 2022–23, 85 per cent of parties who responded to the survey said the process was fair. This was an increase from 75 per cent in the previous year. We also ask parties how accessible our process was, this includes accessibility of information we provide, how we explain the process to people and how easy it was to communicate with us.

The accessibility of our complaint handling service remained high at 77 per cent. Parties to complaints provided positive feedback about the benefits of the Commission's complaints process.

“A perfect result, very satisfied.”

“I would like to take the opportunity to express my gratitude to and to commend the ACT HRC on its approachability, the high level of active communication skills of staff (including reception), the respectful management of my expectations and clear explanation of processes. Finally, the ongoing advocacy, support and understanding demonstrated by officers who worked on this matter, and the recommendations and provision of support services has made a fundamental difference to mine and my family's life. You should all be very proud of the work you are doing for the community.”

“The conciliation process provides an effective mechanism for both parties to understand each other's issues and perspectives. The session I attended was facilitated professionally, respectfully and provided a safe space for parties to openly communicate.”

“I had someone to help communicate my experience when I couldn't myself.”

“I was very impressed with the professionalism and smooth performance of the case officer assigned me. Being ‘piggy in the middle’ of combative & aggrieved parties must be one of the most difficult jobs around. It's not a job I could do with any equanimity :) Can't praise their work highly enough. I didn't get an ‘outcome’ as in a judgment or finding, but I did get heard and did get my expectations very well set before starting the process.”

“It assisted in a system improvement that will be applicable for other patients who raise the same concern.”

“Able to register our complaint without the pain of going to court.”

“I would like to start by thanking you for helping me to manoeuvre through the intricacies of this matter, and to achieve in getting all my leave payment, and salary difference owed. I would like to thank you for lending me your ear, and just listening to my complaint. Thank you for your patience and your professionalism.”

“I was able to help my granddaughter in-law feel that she had at last been heard.”

“Your support is greatly appreciated. I think this is a win for all children and their parents who attend their centres.”

“An essential transportation service for me was re-enabled. I received a good explanation of why my case was handled in the way it was and I am confident that the complaint had an impact on how future cases like me will be handled.”

“Being an immigrant I have experienced my fair share of discrimination over the past 27 years and the fear of job loss and/or other repercussions have often prevented my standing up for myself. I now feel that (1) I have a voice and (2) somebody is actually standing by my side if I need it.”

“A fair approach to problems and avoidance of escalation of situations that can be solved with meaningful conversation.”

“I deadset want to thank you from the bottom of my heart for all you have done and for sticking with us. I can't express how much that means to me knowing you have stuck around and worked to make things better for us.”

“It was good to have an outside person to help me with the process. I found everything professional and I felt safe communicating with the ACT Human Rights Commission.”

“The process was handled with a high level of professionalism and thoroughness.”

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. We also deal with complaints about access to health records held in the ACT. The Commission's health service complaint process provides parties with a chance to resolve a complaint through conciliation.

The complaint handling team responded to 567 health service-related enquiries and received 760 health service complaints. Health complaints increased over the COVID peak period and that increase has been sustained in 2022–23. Of the complaints received:

- 480 were made directly to the Commissioner
- the Australian Health Practitioner Regulation Agency (Ahpra) notified the Commissioner of 276 new matters
- the ACT Veterinary Practitioners Board notified the Commissioner of 4 new matters.

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

The Commissioner also participated in the Dhulwa Independent Oversight Board (overseeing implementation of recommendations arising from the public inquiry into Dhulwa in 2022), the Child and Adolescent Clinical Services Expert Panel, the Health Disability Strategy development process, conducted information sessions about the health services complaint process and conducted visits across a range of health facilities seeking consumer input on a number of projects and investigations.

Table 3: Most frequent health complaint issues

Issue	Number of complaints
Treatment and diagnoses	256
Professional Conduct	136
Medication	61
Communication	58
Access	49
Fees and costs	47

Table 4: Most frequent health complaint respondents

Provider	Number of complaints
Individual practitioner	382
Public health service	224
General practice	68
Other health service	16
Pharmacy	12
Private hospital	10

Table 5: Most frequent registered practitioner type

Practitioner type	Number of complaints
Medical practitioner	233
Psychologist	42
Nurse or midwife	40
Pharmacist	19
Dentist	13

Working with Ahpra

The fifteen registered health professions in the ACT that are part of the National Registration and Accreditation Scheme (eg medical practitioners, dentists, midwives, pharmacists, psychologists, paramedics) are regulated by a national board specific to that profession. 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, developing codes of conduct and other functions.

Ahpra supports the national boards in their primary role of protecting the public and works with the 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 or to take regulatory 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 cautioning a practitioner, imposing conditions, requiring a performance assessment, or referral to a tribunal. Practitioners can appeal reviewable decisions to ACAT.

Ahpra and the boards can refer a notification to the Commissioner where the conduct complained about does not identify a risk to the public and it is more appropriately dealt with through the Commission's conciliation process.

Finalised health service complaints

In 2022–23 760 health service complaints were received and 784 complaints were closed.

Table 6: Outcomes to complaints about individual registered practitioners

Outcome	Number of complaints
No further action	229
Conditions	37
Caution	23
Undertaking	2

Table 7: Most frequent outcomes to health service complaints

Outcome	Number of complaints
Explanation provided	326
Apology	110
Regulatory action taken against a registered health practitioner	62
Service provided	55
Review or change made to a policy or procedure	48

Health service complaints case studies

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 dealt with. 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

Insufficient support for early miscarriage

A woman raised concerns about the management of her early miscarriage whilst in an emergency department at a hospital. She said she was not provided with emotional or practical support, or sufficient pain relief. The hospital participated in conciliation with the woman and her husband, and acknowledged that the care could have been improved. It was agreed that the woman would share her story to contribute to education for hospital staff, and a financial outcome was agreed to.

CASE STUDY

Miscommunication of ambulance fee

A woman was in isolation with COVID symptoms, when she became acutely unwell and rang a health help line where it was suggested that an ambulance may be free of charge in these circumstances. The woman called triple zero but says she advised them that she did not want to call an ambulance if this would incur a fee. An ambulance was called and the woman was later billed. After being contacted by the Commission, the ambulance service responded agreeing to waive the fee in this circumstance and the matter was considered resolved.

CASE STUDY

Inpatient mental health care

A man complained about his first experience of inpatient mental health care, including the adequacy of the assessment of both his mental and physical health. The man also complained he was not provided with information about his rights as an involuntary patient and about a delay in being provided with clean clothing and other personal items.

The man was dissatisfied with the service provider's initial response to his complaint. Following contact by the Commission, a senior mental health officer contacted him directly to explore his concerns further and apologise for his negative experience. The hospital also invited the man to provide additional written feedback and attend a tour of the ward when he was well, if he felt this would assist him to better understand his experience.

CASE STUDY

Failure to diagnose

A woman complained that an emergency department doctor failed to undertake a thorough examination or accurately diagnose her toddler with a serious medical condition. The woman felt the doctor did not treat her concerns about her child's symptoms seriously. The toddler's condition deteriorated leading to a subsequent hospital admission requiring surgical treatment.

The woman was satisfied with the hospital's explanation and apology for the identified shortcomings in her child's care. The woman was satisfied with the measures taken as a result of her complaint, including increased supervision requirements and training to be undertaken by the doctor.

CASE STUDY

Specialist practitioner fails to communicate effectively

A man met with a specialist practitioner to seek support with his chronic pain. He said the practitioner committed to making enquiries regarding an available prescription or eligibility for a program to assist with pain management, however communication from the practitioner over an extended period was unclear regarding what steps the practitioner would take and what was expected of the GP. The man explained that this caused a significant delay in being able to access support and had a negative impact on his pain management. In jointly considering the matter with the relevant Board, a decision was made to caution the practitioner in relation to the breakdown in communication which led to delays in the patient's care.

CASE STUDY

Fees and costs at a GP practice

A woman lodged a complaint against her GP practice for being incorrectly billed for a consultation. The appointment had been made online with no information about billing provided. She enquired with administration staff and was informed her consultation would be bulk billed. The practice later charged her \$100. After several phone calls between the Commission, the practice and the complainant she was reimbursed for the consultation. The complainant was satisfied with this outcome.

CASE STUDY

Transfer of medical records

A man lodged a complaint against a GP Practice regarding a delay in the transfer of his medical records to his new GP. After several calls between the Commission, the practice and the complainant the records were transferred and the transfer fee was waived. The complainant was satisfied with this outcome.

CASE STUDY

Inappropriate clinical management

A woman raised concerns that she was unable to obtain timely advice from her long-term specialist when her symptoms worsened. In response, the doctor advised that they had required blood test results to determine the appropriate treatment. The woman responded that she was unaware that the test results were a requirement for treatment and noted that she had had recent blood work performed.

The matter was jointly considered by the Commissioner and the Medical Board. It was considered that the doctor's long-term management of the woman was outside current guidelines. It was noted the doctor's response demonstrated a lack of insight into these performance deficiencies. Regulatory action was taken and the doctor was required to undergo mentoring with a senior peer and undertake further education.

CASE STUDY

Delay in involvement of specialist care

A pregnant woman presented to the emergency department (ED) unwell. During the ED's management of the woman, there was a delay in notifying the obstetric team. Once an obstetric assessment was made, foetal distress was identified and the woman was taken to theatre for an emergency caesarean. In response to the complaint, the hospital developed a new clinical pathway for the management of a pregnant person in the ED.

CASE STUDY

Wait time for outpatient clinic review

A woman said that her GP referred her child to a specialist outpatient clinic for review. After waiting for a year, her son had a telehealth appointment with a doctor contracted by the hospital. That doctor recommended that a scan be performed and referred the child back to his GP for referral for the scan. The woman complained that her original referral to the clinic had not been appropriately actioned and said that it did not make sense to be directed back to the GP.

After being notified of the complaint the hospital facilitated a specialist clinic appointment without requiring a second GP referral. The recommended scan was expedited by being performed at a private facility, at no cost to the family.

CASE STUDY

Management of breast cancer

A woman was diagnosed with breast cancer. At her initial surgical review, her surgeon recommended an MRI before proceeding to surgery, but then did not act when a second suspicious lesion was identified. When responding to the complaint, the surgeon maintained that this management was reasonable. The Commission obtained independent clinical advice, which was critical of the surgeon's decision making. The matter was jointly considered by the Commissioner and the Medical Board and it was agreed that the surgeon's management did not meet the expected standard and regulatory action was taken.

CASE STUDY

Inappropriate comments by clinician

A woman said that when attending a dermatologist for a skin cancer check the doctor provided unsolicited advice and comments about her appearance, including options for cosmetic procedures. The doctor provided a written response and both parties agreed to participate in a conciliation discussion. During the conciliation discussion the doctor acknowledged that the client had not requested any advice regarding cosmetic procedures and provided a verbal apology for the comments.

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 conciliation to the parties. 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. The conciliation process allows us to facilitate resolution of the issues in the complaint separately to the conduct issues being considered by the board.

Four new veterinary matters were received and two matters were closed in the reporting period.

National Code of Conduct for Health Care Workers

The ACT Code of Conduct for Health Care Workers is set out in the Human Rights Commission Regulation 2023.

The code sets out minimum practice and ethical standards that non-registered health care workers must comply with in the ACT. The code also informs consumers about what they can expect from health care workers when accessing a health service. Consumers can raise a concern or lodge a complaint with the Commission if they have concerns about the conduct or services delivered by a non-registered health care worker.

Under s.95 of the HRC Act, health care workers are also obliged to display a notice letting consumers know where they can complain if they have a concern about the service being provided.

The code applies to a health care worker who is not a registered health practitioner and to a registered health practitioner who provides health services unrelated to their registration. From January 2024 the Commission will be able to accept complaints regarding alleged breaches of the Code.

Health care workers:

- must provide health services in a safe and ethical manner including within accepted professional standards and within their experience, training and qualifications
- provide a health service that is sensitive to the cultural needs of the client
- must not make claims to cure cancer or other terminal or incurable illnesses
- must adopt standard precautions for infection control
- must not dissuade clients from seeking or continuing with treatment by a registered medical practitioner

and must accept the rights of their clients to make informed choices in relation to their health care

- must not practise under the influence of alcohol or drugs
- must not financially exploit clients and must not accept or offer certain financial inducements or gifts
- are required to have an adequate clinical basis for treatments
- must not misinform their clients about themselves or their practice
- must not engage in a sexual or close relationship with a client
- must keep appropriate records
- must keep appropriate insurance
- must create appropriate policies and procedures to ensure client confidentiality and privacy and comply with them
- must display code and other information (with some exceptions).

The Commission manages complaints about health care workers and health services in the ACT. If the Commission finds that a health care worker has breached the Code of Conduct and poses a risk to the health or safety of members of the public it can:

- make recommendations to the health care worker to improve their practice
- issue an order prohibiting the person from providing health services for a period of time or permanently
- issue an order placing conditions on the provision of health services by the health worker
- make a public statement identifying and giving warnings or information about the health worker and health services provided by the health practitioner.

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. It covers a wide range of

protected attributes including race, age, disability, gender identity, employment status, accommodation status and being subjected to family violence.

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 a safe, inclusive and diverse community. In 2022–23 the Commissioner contributed to the consultation process on proposed amendments to the Discrimination Act reviewing the current exceptions and exemptions. These amendments also include the introduction of a positive duty into the Act which will require duty holders to take positive steps to eliminate discrimination from their workplaces and service provision.

The Commissioner attended a range of community events related to the discrimination jurisdiction to promote Canberra as a safe and inclusive community, participated in research regarding the human rights complaint mechanism, attended events such as Fresh Out, the Multicultural Festival, and the Seniors Expo, participated in an international symposium on sexuality and gender identity conversion practices and attended the Australian Council of Human Rights Agencies (ACHRA) and provided input to the development of Respect@Work deliverables and reporting.

The Commissioner arranged ads in community languages on community radio to raise awareness of complaint options for people experiencing racism, discrimination, elder abuse or other issues that might affect their health, wellbeing and safety. The Commissioner provided sponsorship for the Council on the Ageing (COTA) ACT Silver is Gold Elders Expos; and participates in a national community of practice on adult safeguarding and is a member of ACHRA, which promotes human rights in Australia. The Commissioner provided sponsorship for the We Can Badminton research project initiated by the World Badminton Foundation, Canberra University and others to promote an inclusive Badminton project in schools in the ACT and continues to be involved in associated research projects. See page 127.

While it was anticipated the number of discrimination complaints may drop in the post COVID lockdown period, discrimination complaints remained relatively high compared with similar size jurisdictions in 2022–23. The Commission received 255 discrimination complaints in 2022–23, compared with 284 last year. This is a large increase from 78 complaints in 2016–17. In the reporting period, 277 discrimination complaints were closed.

Table 8: Grounds in discrimination complaints*

Ground of complaint	2022–23	2021–22	2020–21	2019–20
Disability	143	158	100	90
Race	42	48	38	48
Accommodation status	23	25	6	8
Age	16	25	6	10
Family and domestic violence	16	7	9	4
Sex	15	21	12	20
Religious conviction	10	4	5	11
Irrelevant criminal record (previously reported as spent conviction)	10	3	12	8
Gender identity, sexuality	10	10	10	15

* Note one complaint may have multiple grounds

Table 9: Most frequent areas of public life in discrimination complaints

Area of public life	2021–23	2021–22	2020–21	2019–20
Provision of goods, services or facilities	132	130	110	100
Employment	58	62	43	46
Accommodation	31	49	25	22
Education	24	27	12	19

Table 10: Outcomes to discrimination complaints

Outcomes	Number of complaints
Explanation provided	146
Review or change in policy and procedure	47
Apology	40
Service provided	37
Financial outcome	25

Discrimination case studies 2022–23

The Commission is not able to determine claims of alleged discrimination made under the ACT Discrimination Act. Where the Commission is unable to resolve a complaint through conciliation, matters may be referred to ACAT for hearing and determination. Given this, the summaries below relate to allegations of discrimination and are generally resolved without admission of liability.

CASE STUDY

Reasonable adjustments not provided by school

A mother alleged that her son was discriminated against by his school on the basis of his disability (autism), as reasonable adjustments had not been adequately provided to enable her son to engage in his education. The school participated in early conciliation with the mother, and agreed to a financial outcome. The mother was also connected with the inclusion team to share her story and she hoped to influence systemic change for the future.

CASE STUDY

Access to rideshare service suspended

A man lodged a disability discrimination complaint regarding a rideshare company, as it had suspended his account for a number of months based on information from a health organisation after he was identified as a close contact for possible COVID exposure. The health organisation advised it was unaware of the account suspension, and wrote to the rideshare company advising that there was no ongoing investigation. It apologised to the complainant for the poor communication he had experienced. The rideshare company reinstated access to his account.

CASE STUDY

Accessing transport with an assistance dog

A man alleged that he was being discriminated against by a transport company when multiple drivers did not allow him onto transport with his assistance dog. At conciliation, the company agreed to work with the man to review and redeliver the messaging provided to all staff regarding assistance animals.

CASE STUDY

Eligibility requirements for committee

A person anonymously raised concerns that a community group was discriminating against members who wanted to apply for the group's executive committee but were restricted by the eligibility conditions related to a protected attribute (irrelevant criminal record). The Commission undertook an own motion investigation. The community group responded by meeting with Commission representatives and subsequently removing the eligibility conditions. The matter was closed on the basis of this change being implemented.

CASE STUDY

Worker complains of disability discrimination

A man complained to the Commission that his temporary contract was not renewed because he had sustained an injury at work which left him unable to fulfil all the duties of the role, and because he had complained about being underpaid. He said that other workers on temporary contracts gained permanent roles and were not required to complete the same duties to obtain permanent employment. The company denied that the man had been discriminated against and provided further information about the circumstances for the permanent appointments. At conciliation, the employer acknowledged the man's concerns and apologised. They agreed to provide training to staff regarding recruitment processes, and provided the complainant with a statement of service.

CASE STUDY

Discrimination allegations at childcare centre

A father who had shared parental responsibility for his children alleged that he was being discriminated against by a childcare centre and not recognised as an equal parent. He said he was not being provided with equal access to the centre or with equal communication. The childcare centre responded expressing their commitment to treat all parents and guardians equally in adherence with the law. It acknowledged lapses in communication, and advised of changes it had implemented regarding communication with both parents in future. The childcare centre and the man reached an agreement that the centre would review their policy to incorporate specific provisions addressing circumstances where court orders concerning shared care of children are in place.

CASE STUDY

Gender identity discrimination allegations

A person who identifies as non-binary complained that they had been discriminated against during a visit to hospital, on the basis of their gender identity. They told staff their preferred name and pronouns, but staff called them by their 'dead name'. At conciliation, an agreement was reached which involved the hospital sharing the person's story with relevant staff, and working with the person and their GP to create a plan to manage any future presentations to the hospital.

CASE STUDY

Accessing service provider with assistance animal

A person alleged that they were refused entry into a health service as their assistance animal did not have sufficient identity and a suitable vest. The parties agreed that the service would amend its policies and procedures regarding assistance animals, provide training to its staff regarding assistance animals, do a media release regarding its new policy and pay the complainant financial compensation.

CASE STUDY

Alleged workplace race discrimination

An employee alleged that during the course of his employment he had been subject to negative comments from colleagues due to his Indigenous background. The employee stated that he was also required to attend an Aboriginal and Torres Strait Islander cultural awareness program despite his background, and that as the only Indigenous person present it was a traumatic experience for him and caused him to feel violated as a result of him being required to share his experiences and listen to stories of Indigenous trauma. The man said he felt he had no option but to resign from his employment. The parties agreed to participate in early conciliation to try and resolve the matter. Agreement was reached and the employer paid the employee a sum of \$50,000 and agreed that Indigenous staff would no longer be required to attend Aboriginal and Torres Strait Islander cultural awareness if they did not wish and would be offered a support person if they chose to attend.

CASE STUDY

Alleged workplace sexual harassment & discrimination

A young female employee of a café raised a complaint of sexual harassment in the workplace. She said that on several occasions during her employment an older male colleague had inappropriately hugged and kissed her and requested a kiss. The female employee said her workplace had not taken appropriate action to investigate her concerns or prevent sexual harassment in the workplace. Complaints were accepted against both the male colleague and the café. The parties reached agreement that the individual employee would provide a formal written apology for his behaviour, and make a payment of \$2,000 in compensation. The employer agreed to pay \$500 in compensation, review their staff training and implement updated processes and training.

CASE STUDY

Alleged disability discrimination at airport

A man raised a complaint on behalf of his mother-in-law, alleging disability discrimination in the provision of goods, services and facilities. The man said that his mother-in-law has Type 1 Diabetes and that when flying from an airport, security personnel required her to use a body scanner device, despite being advised that the machine could damage her insulin pump. The man says his mother-in-law was asked to remove her pump and that staff refused to accept her medical requirements or permit her an alternative method for security checks. Upon being notified of the complaint, the airport provided a written apology for the experience and outlined the steps taken to improve staff training and communication. The airport also provided a written letter for the woman to print and carry during future travel at that airport, noting her exemption from the use of body scanners.

CASE STUDY

Alleged disability discrimination from taxi

A man raised concerns that during a phone call to book a taxi, the operator refused to confirm that his interstate disability voucher would be accepted. The man said the operator also made rude comments to him and hung up on him.

Upon being notified of the complaint, the taxi company provided a written response to the concerns raised. The taxi company confirmed that Government-issued interstate taxi subsidy scheme vouchers are recognised and would be accepted by drivers as a form of payment. They acknowledged that the man was not provided with this information by the telephone operator and that she was short-tempered with him during the phone call. The staff member (employed by a contracting service) had received retraining and a verbal warning by her direct employer. The taxi company also advised that they had updated their directives to ensure all staff are aware of processes regarding recognition of taxi subsidy scheme vouchers and provided updated training materials for drivers in relation to this. The company had also previously provided a written apology and a taxi voucher to the man for his experience. The man agreed that the concerns raised in his complaint had been sufficiently resolved on this basis.

CASE STUDY

Accessible bathroom at swimming pool

A mother of a child with a disability complained that the parents' room and accessible bathroom at a sports facility were regularly out-of-order and unable to be used which meant that her child was unable to access the sports facility. The sports facility said it was in the process of introducing a universal lock and key system which would allow people with disabilities to use dedicated facilities and prevent general access to reduce vandalism. The facility also ordered additional maintenance supplies to ensure repairs occurred in a more timely manner to reduce prolonged closure of the parents' room and accessible bathroom.

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 35 complaints to ACAT in 2022–23.

HOLLMANN v THE ACT GOVERNMENT [2023] ACAT 36

In *Hollmann v The ACT Government (as represented by the ACT Health Directorate, CBR Health Services)* [2023] ACAT [2023] ACAT 36 (Discrimination), ACAT considered multiple claims of disability discrimination in relation to the provision of COVID vaccinations, testing and treatment services and access to health clinics.

ACAT found that two of the applicant's multiple claims amounted to disability discrimination. First, ACAT found that the applicant was indirectly discriminated against through the inadequate deployment of assistance staff at COVID clinics where the surface of the carpark was deep gravel. ACAT held that the failure by the respondent to ensure that adequate signage was provided for situations when staff were temporarily unavailable to assist wheelchair users in the gravel meant the clinics were inaccessible. This amounted to unfavourable treatment on the basis of disability which was not reasonable. ACAT also held that requiring the respondent to provide adequate signage did not amount to unjustifiable hardship. Second, ACAT found that the applicant was indirectly discriminated against based on his disability when he was forced to wait on at least 2 separate occasions for roughly 10 minutes before being permitted to enter a COVID

testing facility. ACAT held that the reason provided by the respondent's staff that they were concerned about wheelchair accessibility was not reasonable because there was no reason why the height of the wheelchair or use of the chair might cause any concern in accessing the services. ACAT then considered what amount should be ordered for compensation for the distress, humiliation and loss of self-esteem arising from the incidences of indirect disability discrimination. Since no ongoing physical, psychological, or economic harm had been caused by the discriminatory conduct, ACAT held that any amount that ACAT would award was compensatory, non-punitive, and should be dependent upon community standards. ACAT referred to other similar discrimination cases and ordered the respondent pay the applicant \$5,000.

KERSLAKE v SUNOL (Discrimination) [2023] ACAT 18

In *KERSLAKE v SUNOL (Discrimination)* [2023] ACAT 18, the Tribunal determined a number of outstanding issues arising from the decision of *KERSLAKE v SUNOL (Discrimination)* [2022] ACAT 40 (first decision), where the Tribunal found that Mr Sunol had vilified Mr Kerslake on the basis of his sexual orientation (in proceedings DT 35/2020 the Tribunal found that 14 posts were unlawful vilification and in proceedings DT 45/2020 the Tribunal found that 9 posts were unlawful vilification).

In this case, the Tribunal considered the remedies available to Mr Kerslake having made a partial finding of unlawful vilification in its first decision. The Tribunal referred to 53E of the *Human Rights Commission Act 2005*—which provides for a range of remedies for unlawful vilification—and ordered that the posts found to be vilification be removed, not repeated, and that Mr Sunol post a statement of the outcome of the ACAT proceedings for a period of six months. The Tribunal also found that while Mr Kerslake was not named or identified in the posts found to be vilification, he was a member of homosexual persons and activities referred to in the posts. Mr Kerslake gave evidence that he had 'significant apprehension, anxiety and distress' on reading the posts, which the Tribunal accepted. The Tribunal ordered that Mr Sunol pay Mr Kerslake the sum of \$4,000 by way of compensation for vilification in each of the two proceedings. The Tribunal noted this amount was at the lower end of the scale because there was no evidence as to the reach of Mr Sunol's posts and Mr Kerslake had known about Mr Sunol's views and visited the sites in any event, knowing the risk of encountering hurtful material. The Tribunal found that any compelled apology from Mr Sunol would not be authentic and accordingly did not order an apology.

PIKULA-CARROLL v ACT CORRECTIVE SERVICES [2023] ACAT 33

In *PIKULA-CARROLL v ACT CORRECTIVE SERVICES* [2023] ACAT 33, ACAT considered whether the applicant had been indirectly discriminated against because of his race and disability. The applicant was a detainee at the AMC who identified as a Ngunnawal man with a spinal injury. He claimed ACTCS had treated him less favourably when they decided to transfer him from the AMC to a correctional facility in NSW. ACTCS made the transfer decision following a riot at the AMC, where although the applicant denied any involvement, an investigation had found otherwise. The applicant claimed that his transfer to a NSW correctional facility caused him to suffer disadvantage on the basis of race through a loss of his ability to connect to country and culture and a diminished ability to maintain kinship ties. The applicant also claimed that he had suffered disadvantage because of his disability through a loss of healthcare services and pain management, continuity of care and access to allied health services which were not available in NSW.

An important issue in this case was ACAT's consideration of the respondent's application for summary dismissal on the basis that the applicant's case was 'lacking in substance' under s32(2)(a) of the ACAT Act. In refusing the respondent's application, ACAT cited *Andreopoulos v University of Canberra* [2020] ACAT 95 and confirmed that where an application for summary dismissal has been lodged at a time when the matter is otherwise ready to proceed to a final hearing, there is little utility in considering separately whether the complaint lacks substance from a final decision. ACAT also considered what might amount to a 'lack of substance' in relation to a discrimination matter and noted that '*The bar for a matter to go to a final hearing on merits is not set high*' (para 34). ACAT stated that for an application for summary dismissal in a discrimination matter to be successful, the respondent must '*identify and close off all potential lines of argument open to the applicant on the facts*' (para 34). ACAT held that the respondent's arguments did not meet this standard and denied the respondent's application.

In the decision, Member Orlov made some observations about unlawful discrimination claims including: the statutory complexity of discrimination law, the importance and significance of the grievance to the complainant, the relative power imbalance between the complainant who is often unrepresented, and an institutional respondent, who often is, the difficulty of unrepresented litigants navigating legal processes and procedures, and the importance of giving full effect to eliminating discrimination and facilitating human rights. In this context, Member Orlov stated that '*an application under section 32 of the ACAT*

Act should be given sparingly and only in very limited circumstances.’ (para 41). Ultimately, ACAT determined that whether the decision to transfer the applicant amounted to indirect discrimination did not arise because the decision was ‘reasonable’ and therefore was not unlawful under the Discrimination Act. ACAT held that the transfer decision was reasonable in the circumstances because it was made to ensure the ongoing safety, security and good order of the AMC (including other AMC prisoners) while an accommodation unit was rebuilt following the riot.

McGHIE v ABORIGINAL LEGAL SERVICE (NSW/ACT) LIMITED (Discrimination) [2023] ACAT 27

These proceedings related to claims by Mr McGhie, a Wiradjuri man, that the requirement imposed by his employer, the Aboriginal Legal Service (NSW/ACT) (ALS) that he be vaccinated against COVID, amounted to direct discrimination under the Discrimination Act on the basis of his genetic information and political conviction. Both claims of direct discrimination were dismissed by the Tribunal.

The Tribunal found that the purpose of including “genetic information” as a protected attribute under the Act, was to protect people from discrimination based on medical or other conditions that may be affected by their genetics, identified from an analysis of their genetic makeup or assumed based on medical or other conditions that may be genetically based. The Tribunal noted that the medical consensus is that vaccination, including the use of mRNA vaccines, does not alter a person’s DNA. It further noted that Mr McGhie had not presented any evidence that would suggest that a person’s vaccination status could be determined from their genes or would be “genetic information” of the kind protected by the provision.

The Tribunal found that while the issue of how to manage the COVID crisis, including policy issues about vaccination and vaccination mandates were the subject of political discussions, just because a subject has a political context does not mean that a person responding to it is acting out a “political conviction.” The Tribunal found that while Mr McGhie had strongly held personal concerns about vaccination, and about the actions taken by his employer, these did not amount to political convictions protected by the Act. The Tribunal also noted that Mr McGhie had failed to provide actual evidence of a causative link between his political conviction and the treatment complained about in the claim.

Mr McGhie also claimed that the process by which the ALS had implemented vaccination requirements for its staff, indirectly discriminated against him by imposing a condition that had the effect of disadvantaging him because of his race. This claim of indirect discrimination was dismissed by the Tribunal.

The Tribunal stated that Mr McGhie had failed to present cogent evidence to establish a causative, factual link between the disadvantage, or potential disadvantage, the condition, and his race. The Tribunal also noted that the only evidence going to whether the process adopted by the ALS had a disadvantageous effect on Mr McGhie because of his race was the evidence of Mr McGhie, and this needed to be weighed against the evidence of the ALS that that no other person in the organisation’s workforce, including none of its Indigenous employees, raised any concerns about either the mandate or the policy.

Disability and community service complaints

The Commission accepts a range of complaints under this jurisdiction including complaints about:

- services for children and young people such as schools and early learning centres, sport, youth justice services, child protection services and health services for young people
- disability services such as accommodation, support coordination and in-home personal care services, programs and transport, holiday programs or employment services for people with a disability
- occupancy disputes such as shared accommodation arrangements
- vulnerable people (abuse, neglect or exploitation of people aged 60 and above, and adults with a disability) including financial abuse or exploitation by guardians or family members, abuse or neglect by in-home service providers for older people or people with a disability, neglect or exploitation by accommodation providers, health services or others
- rights under the victims of crime charter of rights, where justice agencies such as courts or police may not have complied with the charter
- sexuality and gender identity conversion practices
- services for older people and retirement villages, including concerns regarding retirement village operations, residential aged care facilities, health services for older people or services for the carers of older people.



A scene from an animation for older people, published by the Commission.

Table 11: Disability and community service matters received and closed

Jurisdiction	Enquiries received	Complaints received	Complaints closed
Children and young people	73	35	36
Conversion practices (commenced March 2021)	1		
Disability	18	6	8
Occupancy dispute (commenced March 2021)	4	5	5
Older people and retirement villages	11	9	9
Victims of Crime Charter (commenced January 2021)	49	34	31
Vulnerable people	52	43	41

Note: complaints closed may not have been received in the same reporting period

Table 12: Outcomes to disability and community service complaints

Outcomes	Number of complaints
Explanation provided	69
Complaint withdrawn, lost contact	55
Review or change in policy and procedure	14
Apology	9
Service provided	8

Disability & community services case studies

CASE STUDY

Communication in foster care

A father complained about not being provided with regular updates in relation to his son in foster care, not having regular contact with his son, and about delays in his concerns being responded to by the agency responsible for case management. The Commission requested a response to the man's concerns, video contact was able to resume between the father and his son, and his son's case manager established contact with the father.

CASE STUDY

Home care package

A woman complained that her service provider for older people ceased providing her with services due to the woman electing to receive a home care package. The parties attended conciliation and agreement was reached regarding additional support to be provided by the service provider.

CASE STUDY

Access to activities for older people

A woman complained to the Commission about the variety of programs offered by a service provider for older people and about the lack of options available for people with limited mobility to participate in programs. The service provider responded to the woman's concerns and invited her to join a participant advisory committee. The provider stated that most programs have inclusions to enable less mobile participants to join at the beginning or end of some activities, and confirmed that the woman would be able to transport her scooter so she could attend activities.

CASE STUDY

Road safety at retirement village

A man submitted a complaint on behalf of his neighbour about the operator of a retirement village. His neighbour was concerned about a motor vehicle colliding against her residence. The Commission wrote to the operator and they provided information in relation to traffic management at the retirement village and stated they would build a gabion rock wall to provide protection from any vehicle collision.

Vulnerable person jurisdiction—abuse, neglect or exploitation of older person or adult with disability

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 60 years or above who experiences barriers to participation in the community because of a disability or social isolation. This is a broad jurisdiction to provide better protections for vulnerable older people in the ACT community. It fills a gap identified in consultations about improving protections for vulnerable people in the ACT; and responds to recommendations in the Australian Law Reform Commission report on elder abuse.

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 approach to these concerns is individually triaged and assessed based on the nature of the concerns raised. The Commission may provide information and support, engage other professionals and/or conduct inquiries into a matter.

The ACT is only the second jurisdiction, together with NSW, to have a broad civil complaints process to respond to claims of abuse, neglect or exploitation of vulnerable people aged 60 years and above, and adults with a disability. The jurisdiction covers domestic and family settings, service providers, accommodation, guardianship arrangements, disability providers and in-home care.

The increase in vulnerable person complaints from 22 in 2020–21 has been sustained in the 2022–23 period at 43 which confirms community need for the jurisdiction. We appreciate the community members, service providers, neighbours and guardians who have contacted us with concerns about a vulnerable older person or person with a disability, wanting to protect those people from abuse, neglect or exploitation.

The Commissioner and DHSDCSC team have participated in a range of panel discussions, presentations, roundtables and events to promote awareness of the jurisdiction. We also appreciate the expertise and collaboration of other agencies, community members and service providers in resolving complaints in this jurisdiction.

The examples below are a sample of the broad range of issues we have received this reporting period.

CASE STUDY

Misuse of funds

Concerns were raised with the Commission that a private financial manager had misappropriated approximately \$30,000 from a protected person's bank account. The Commission contacted the financial manager and requested they attend the Commission to discuss the concerns raised with the new financial manager, the Public Trustee and Guardian. An acknowledgement was made that the money had been taken and used inappropriately, and an agreement for the repayment of misappropriated funds was drafted by the Commission and signed by the parties. The private manager elected to resume a relationship with the protected person after this point, having reconciled with the situation.

CASE STUDY

Abuse by a carer

Concerns were raised with the Commission that a person living with a disability was experiencing physical, psychological, sexual and financial abuse by their carers. The Commission, along with several frontline services met with the vulnerable person to obtain their express will and preference regarding their circumstances and to create a safety plan. A multi-agency response assisted the person relocate and gain control of their personal and financial affairs, with appropriate supports.

CASE STUDY

Coercive control

Multiple concerns were raised with the Commission about the control of a carer and guardian of an adult with a disability. Concerns included that the carer was restricting access to services, controlling the way NDIS services were being provided and restricting the movement and access to social supports for the person. The Commission approached the carer with the concerns raised, met with the vulnerable person to ascertain their views and wishes regarding the concerns raised, and worked with the carer and other services to implement a protocol moving forward which supports the vulnerable person to live with agency, choice and control of their lives to the greatest extent possible.

CASE STUDY

Financial and verbal abuse

A service provider raised concerns with the Commission about the welfare of an older person after having witnessed a family member pressure the older person to give them access to their bank account. The Commission met with the older person, obtained their wishes (the older person wanted the abuse and pressure to stop but wanted to maintain a relationship with the family member) and then met with the family member to express the concerns raised and the older person's position. The family member agreed to be more respectful of the relationship moving forward and to facilitate the return of personal items belonging to the older person.

Commission-initiated considerations

A CIC can be conducted in the following circumstances:

- 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 matters, the Commissioner becomes the complainant and concerns are investigated as a complaint. In a CIC the Commissioner will work with organisations to resolve any issues identified during the investigation.

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 CICs to ACAT for determination.

In 2022–23, the Commissioner began 46 new CICs and closed 49. This is a 53.3 per cent increase in matters opened from 30 in 2020–21. A number of these were related to concerns about vulnerable people experiencing abuse, neglect or exploitation.

Table 13: Commission-initiated considerations

Jurisdiction	New	Closed
Vulnerable person	25	27
Health	9	10
Discrimination	5	6
Disability	3	2
Children and young people	2	3
Older person (incl retirement village)	2	1
Total	46	49

Note: not all the matters closed were opened in the reporting period.

CASE STUDY

Dental services

Concerns were raised about the financial consent process and billing practices of a dental practice as well as improper disclosure of confidential health information. The dental practitioner provided a response but the Commission's concerns about the conduct were not alleviated. In consultation with Ahpra and the Dental Board the matter was referred to Ahpra for further investigation.

CASE STUDY

Privacy concerns at a school

A mother contacted us with concerns about staff practices at a school which she felt breached students privacy. She claimed staff were insisting on students unlocking their phones and letting teachers see private chats, taking screen shots and commenting in private chats between students. This matter is being investigated.

CASE STUDY

Gender balance in sporting club fees

A man raised concerns about fees charged for competitions, transport and travel by a sporting club for young female players versus male teams of the same age. He says this is a disincentive for female players to compete and argues it is gender discrimination. His daughter is a member of the club but is too young to be directly affected by the policy. However, he is concerned at the practice and the number of young female players leaving the club because of this policy. This matter is being investigated.

CASE STUDY

Personal protection order against patient

A patient who has contact with mental health services contacted us with concerns that a clinical staff member had taken out a personal protection order against them after an altercation at the service. The patient is concerned about how they will access mental health services in the future without being in breach of a protection order particularly given they access those services when they are acutely unwell. This matter is being investigated.

Victims of Crime Commissioner

Highlights



Victim Services Scheme and the Client Services Team

The Victim Services Scheme (VSS) operates under the *Victims of Crime Act 1994* (VoC Act) and the Victims of Crime Regulation 2000 to provide advocacy and support to victims and their families to aid their recovery from crime. The impacts of violent crime are often complex and can have lasting effects on a person's life. The Client Services Team (CST) at Victim Support ACT (VSACT) supports people regardless of how long ago the crime occurred and whether or not it was reported to police. Case coordinators work with clients in a variety of ways. This work includes supporting clients to navigate the complexities of the criminal justice system and ensure their rights are upheld under the Victims Charter of Rights. Case coordinators also work closely with other supports within the agency, such as the multicultural liaison officer, the disability liaison officer and the Aboriginal and Torres Strait Islander outreach program. Case coordinators refer directly to these programs or work collaboratively to ensure that clients receive appropriate and culturally safe support. Where a family violence matter involves a high risk of serious harm, case coordinators also work closely with VSACT's Family Violence Safety Action Program (FVSAP) to support clients' safety.

Case coordinators also provide advice and support to people making applications for the Victims of Crime Financial Assistance Scheme (FAS), including assistance to apply and gather evidence and supporting documentation.

During the reporting period, the CST continued to deliver high-quality, timely and professional support. Direct client engagement remains the primary referral source, making up 57 per cent of total referrals for the period. The majority of remaining client referrals come from ACT Policing (ACTP), Supportlink and the Domestic Violence Crisis Service (DVCS).

Overall, the CST provided information or support to 3,185 people. This included a 29 per cent increase in new clients registering for case coordination compared to last year (875 new clients, up from 677). The VSS has experienced escalating demand for case coordination across the last four reporting periods, with a 110 per cent increase in the number of clients accessing case coordination between 2017–18 and this year.

In addition to the support provided within the CST, clients can access a range of external therapeutic supports that are offered free of charge for clients and paid for through the VSS. The VSS has 147 active approved private practitioners, including highly skilled counsellors, clinical psychologists, massage therapists and mental health social workers. During the reporting period, VSS expanded its approved providers to include occupational therapists and mental health nurses, increasing the professional disciplines available to clients. In addition to holding

specific professional qualifications in their relevant field, all approved providers must have significant expertise in therapeutic interventions and a demonstrated capacity to work with people who have experienced complex trauma. The VSS continues to approve additional qualified providers to maximise client choice and reduce wait times for therapeutic support. During the reporting period, clients accessed 8,792 hours of support with approved providers. This is an increase of over 700 hours compared to the previous year (8,080 hours during the 2021–22 period).

“ Client feedback

“One thing that really stood out to me was the support from the Victim Support team, my case worker, and the court support volunteer. The court support volunteer was wonderful in keeping things light-hearted and keeping me occupied with non-court related stuff. The care [from VSACT] has definitely made this stressful time less harrowing. The volunteer’s care is definitely felt by me and other witnesses in this trial.”

“I’ve just told my daughter what u have done for us and she has said you are one of the nicest ladies ever.”

“you guys are amazing with all your help I couldn’t of done it without you”

“Thank you to my case coordinator. Really, your help is much appreciated, and you have worked so hard to support me.”

“I really wanted to take the time to thank you for how amazing you were when we had our original call.”

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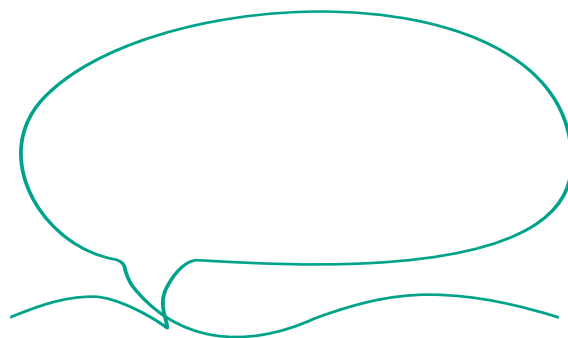


Table 14: VSS client assistance

	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23
Clients provided with case coordination						
New clients registered for case coordination	404	524	689	853	677	875
Existing clients with new experiences of violence	6	6	107	156	194	244
Existing registered clients receiving ongoing service	630	521	691	860	1,049	1,063
Subtotal	1,040	1,051	1,487	1,869	1,920	2,182
Clients provided with information, referred to other services or unable to be contacted						
Advice, information or referral	429	544	613	755	681	502
Referral received and client declined service	140	80	44	73	82	58
Out of scope/inappropriate referral	25	23	15	33	39	120
Clients unable to be contacted after 3 attempts	207	186	270	353	354	323
Total	1,841	1,884	2,429	3,083	3,076	3,185

Figure 1: Referrals to VSACT

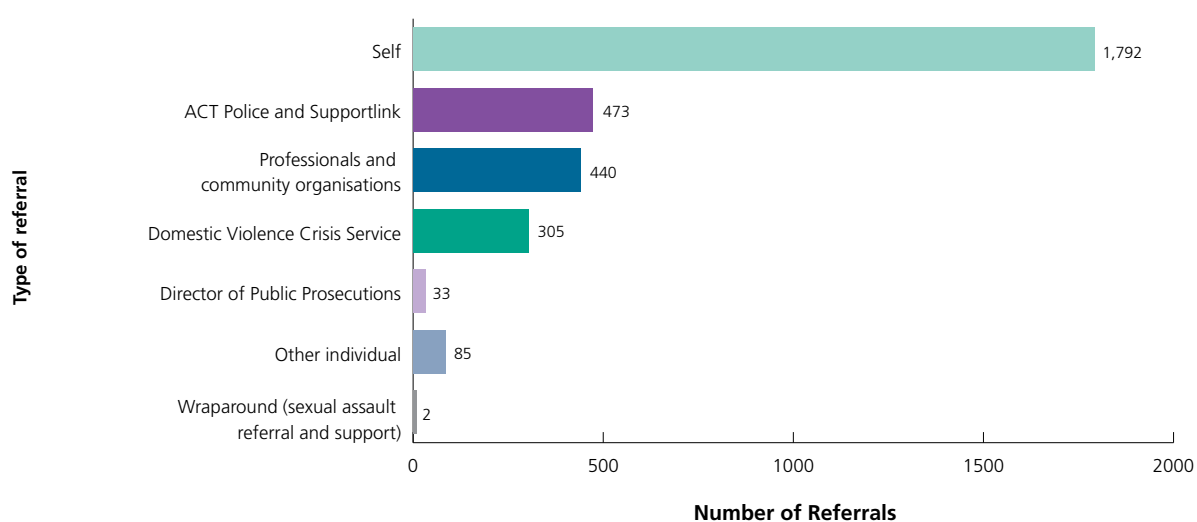
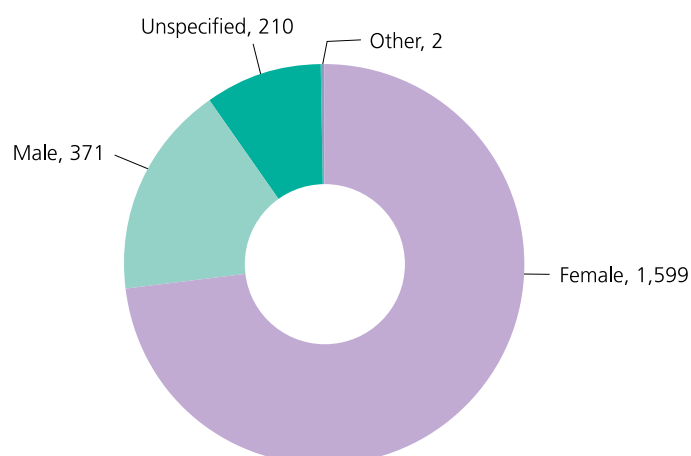


Figure 2: Gender of clients provided with case coordination



CASE STUDY

Case coordination for Mia

Mia called VSACT after experiencing ongoing domestic and sexual violence from her husband. A recent physical assault prompted her neighbours to call the police. When police referred Mia to VSACT, she said that due to the ongoing nature of the violence—including extensive coercion and control—she was having difficulty making decisions about getting help. She had no family social support and felt very isolated. Mia reported that she was not sleeping well and was feeling anxious and overwhelmed.

Mia was allocated a case coordinator within the CST who worked with her to identify her immediate support needs. Mia advised she had not received an update from police about the matter and was feeling anxious. Her case coordinator provided advocacy with police as part of Mia's rights as a victim of crime. Following this, Mia received a phone call from the officer providing an update about the court matter. At the same time, priority counselling was arranged for Mia and her three children. Mia's counselling goal was to feel empowered again.

As part of the intake process, the case coordinator identified any reasonable adjustments that could assist Mia to access services. As Mia struggled to read and write, the case coordinator ensured all communication with her was, as Mia had requested, by phone. A short time later, Mia also nominated the case coordinator as the client's point of contact for police and the DPP's Witness Assistance Service (WAS). Being kept informed by the case coordinator allowed Mia to best understand the criminal justice process and know her rights and responsibilities as a witness.

An immediate priority for Mia was to enhance the security of her home. The case coordinator assisted her to make an urgent application for security upgrades through the Financial Assistance Scheme (FAS). Security cameras were installed at her front and back doors, her locks were changed and deadbolts were installed. Mia was also referred to the Domestic Violence Crisis Service (DVCS) for crisis support and safety planning. She was also referred to Canberra Community Law (CCL) and Tenancy Advice Service ACT (part of Legal Aid ACT) for legal advice about potentially removing her husband's name from their lease.

Mia was also supported to write a victim impact statement, which the prosecutor read in court on her behalf. It was important for Mia that her ex-husband heard how the crime had impacted her and the children. The case coordinator provided Mia information on the victims register so that Mia could stay informed about the management of her ex-husband's sentence. Mia was very grateful for the support she received from VSACT and acknowledged that the court process would have been much more stressful without the support of the service.

Victims Justice Volunteer Program

The Victims of Crime Regulation 2000 requires VSACT to develop and maintain a volunteer program to support those affected by crime. The program is delivered by trained and skilled volunteers and provides practical support to victims of crime in a range of legal and justice settings. The program is overseen by the VSACT Program Coordinator who recruits, trains and provides ongoing support and debriefing to volunteers. Across the reporting period, the program has been renamed the 'Victims Justice Volunteer Program' to better capture the type of support the program provides, noting that support provided by volunteers extends beyond court support.

Within the program, volunteers regularly deliver the following types of support:

- Practical support to clients attending court including for criminal trials, sentencing hearings or protection order conferences or hearings. This may include supporting clients to give evidence from the courtroom and/or a remote witness room via CCTV link.

- Meeting with the client's allocated Prosecutor at the Office of the Director of Public Prosecutions.
- Attending a police station to support clients at a 'meet and greet', to make a report and/or to make a statement to police or receive an investigation update.
- Assistance writing a Victim Impact Statement for sentencing proceedings, to tell the court how a crime has impacted the victim's life.
- Applying for the Financial Assistance Scheme (FAS).

The COVID-19 pandemic had a negative impact on the volunteer program across the 2020–2022 period, with volunteers limited in the support they could provide to clients at court and in meetings with justice agencies. Continuing to rebuild the number of highly skilled volunteers in the program remains a priority. Recruiting and training new volunteers will increase VSACT's capacity to deliver more support to victims of crime.



Staff and volunteers at a morning tea in December 2022.

“ Client feedback

“The client previously accessed the support of a volunteer in January for her FVO return conference, and she advised that she greatly appreciated the support of the volunteer, saying they were very strong and confident which helped her through the day.”

“Thank you for assisting me with my court matter today. I met with the volunteer who was most helpful and very pleasant, I felt much at ease in her presence.”

“On behalf of the DPP, I would just like to extend my genuine appreciation and admiration for this support. The volunteer stood by the complainant’s side over these marathon five days on what were very serious charges ... The work your service does is crucial and has had a major positive impact in this matter. Again, thank you for providing a support person and thank you to the volunteer for all your support to the complainant.”



Table 15: Victims Justice Volunteer Support services

Support provided by volunteers	2019–20	2020–21	2021–22	2022–23
Hours of support provided to clients at court	310	288	166	233
Hours of support provided to assist clients to prepare FAS applications, draft a victim impact statement, make a police report or attend a ACTP or DPP meeting	251	63	48	69
Total	561	351	214	302

National Redress Scheme (NRS) counselling and Direct Personal Responses (DPR)

VSACT provides therapeutic support and counselling to successful National Redress Scheme (NRS) applicants who live in the ACT at the time of accepting an offer of Redress. Once a successful Redress applicant accepts counselling through VSACT, they are matched with a provider from a specialist Redress panel. Alternatively, an NRS applicant may prefer to continue accessing counselling with a provider they already know and trust. If that counsellor chooses to become a Redress panel member, VSACT is able to take on the costs associated with that counselling.

As part of VSACT's commitment to supporting survivors to recover from institutional abuse, VSACT is also currently the initial contact point for NRS applicants who are seeking a Direct Personal Response (DPR) from an ACT Government institution.

Since the NRS began in July 2018, 127 NRS survivors have accepted counselling with VSACT as part of their NRS packages; and 41 survivors have chosen to access counselling since accepting their NRS package.

In the reporting period:

- 28 survivors were referred to VSACT by the NRS
- 6 survivors commenced counselling
- 22 survivors continued to access counselling from previous years
- 0 survivors accessed a DPR.

Supporting families bereaved by motor vehicle offences in the ACT

VSACT now assists families who have been bereaved by motor vehicle offences that have taken place in the ACT. Regulation 24 of the Victims of Crime Regulation 2000 was amended on 31 May 2023 to include eligibility for support for families who have lost loved ones because of a motor vehicle accident involving a criminal offence. This includes crisis counselling, case coordination and ongoing therapeutic support under the VSS. This regulation change was the result of extensive advocacy over many years and was a recommendation of the Projects Assisting Victims' Experience and Recovery Review (PAVER) report (2021), commissioned by JACSD.

A small team in VSACT has been established to provide the crisis coordination, advocacy and ongoing support these families need. The team is also liaising with key stakeholders including affected families, the Motor Accident Injuries (MAI) Scheme and ACTP to ensure coordinated and accessible support for bereaved family members.

Financial Assistance Scheme (FAS)

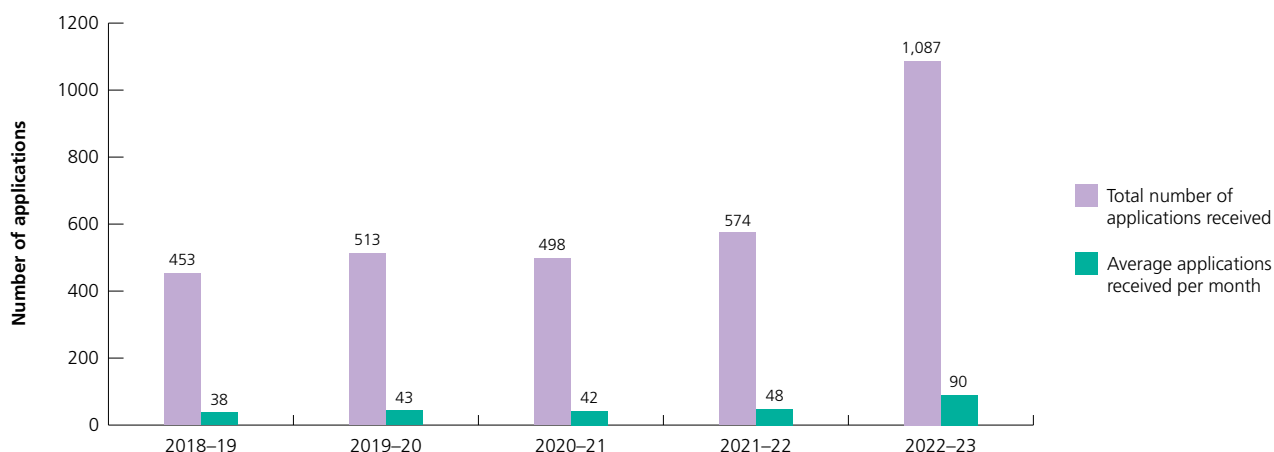
FAS just completed its seventh year of operation. This year, FAS received 1,087 applications, compared to 584 in 2021–22. This represents an 86 per cent increase, the largest annual increase since the scheme commenced. In addition, FAS has experienced the biggest single increase in payments made, with \$9.4 million this year, compared to \$2.9 million last year.

These gains have been made possible because of a multifaceted and concerted effort to improve the way that the scheme works. In particular, the FAS team have worked hard this year to streamline systems and processes and to reduce the time it takes to assess an application. In doing so, the FAS team have made substantial inroads into the existing backlog of applications, which is reflected in the significant increase in payments.

FAS has also reviewed its operations to ensure the assessment of applications gives effect to the legislative purpose of the scheme, including that the evidentiary requirements reflect the provisions and purpose of the *Victims of Crime (Financial Assistance) Act 2016* (ACT). One such improvement has been to apply a presumption of harm in cases of sexual offending against children, to bring the scheme into alignment with the position taken by ACT Courts.

The cumulative effect of this work has been to substantially increase the output of the scheme, as demand for financial assistance continues to grow.

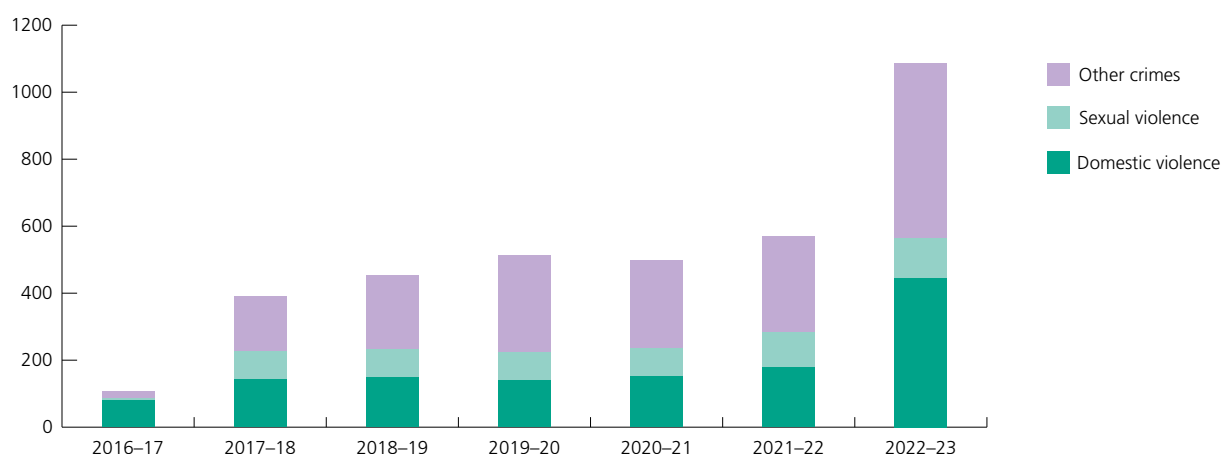
Figure 3: FAS applications data



Domestic violence and sexual violence: Proportions over time 2016–2023

Since early in the scheme's operation, domestic and family violence comprise more than half of the applications for financial assistance received.

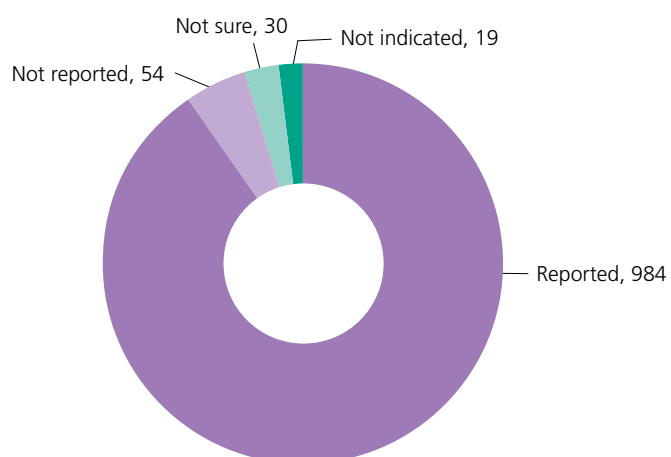
Figure 4: Applications for financial assistance – family violence and sexual violence



Crime reports: Are the acts of violence reported to the police?

Applicants who have not reported to the police, or are not sure whether they have reported to police, make up less than 10 per cent of applications.

Figure 5: Acts of violence reported to police by FAS applicants



CASE STUDY

Financial assistance for Ariya

Ariya was experiencing ongoing family violence perpetrated by her ex-partner. She applied to the FAS to assist her to relocate to a new property and install security cameras for her safety. The FAS prioritised Ariya's application due to her safety concerns, and she was found to be eligible for financial assistance as a primary victim. This assessment was based on police information and records from the community organisations that were supporting Ariya. The FAS paid for Ariya's relocation and security cameras. Ariya was also granted a payment to recognise the impact and harm of the violence she experienced.

Who is applying for financial assistance?

Figure 6: Breakdown of applications by gender identity

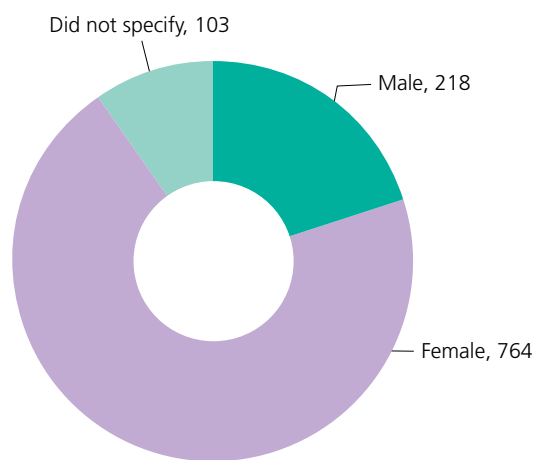
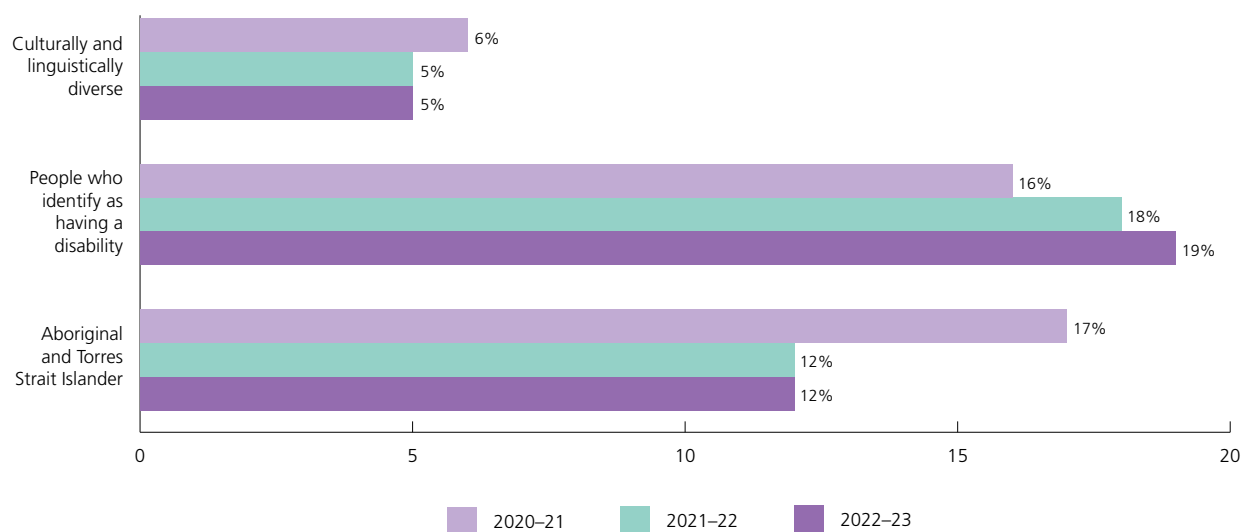


Figure 7: Support for vulnerable groups



“Client feedback

“I am also very thankful that I live in a jurisdiction that provides such support services to victims of crime—and for the professionalism and kindness with which my case has been handled.”

“I want to thank you from the bottom of my heart, the fact that the violence suffered has been recognised and validated means more to me than I could ever describe. It is overwhelming to finally be seen in this process which has changed my life so much.”

“You all do an amazing job, processing and keeping people like myself updated as much as possible.”



Payments

The total expenditure for the FAS in 2022–23 was \$9,417,491.27, a 224 per cent increase from last financial year.

Immediate needs

Immediate need payments are intended to help victims of crime with urgent expenses, as prescribed by the Victims of Crime (Financial Assistance) Regulation 2016. Applications can be made for cleaning the scene of a homicide, personal security (eg changing locks, security screens), relocation for personal security (eg removals van, storage unit) and emergency medical costs and related services that contribute to recovery.

Table 16: Immediate need payments by reporting year

	2020–21	2021–22	2022–23
Type of immediate need payment	Total of payments made	Total of payments made	Total of payments made
Cleaning the scene of a homicide	\$0	\$0	\$0
Personal security of a victim	\$142,242	\$206,013	\$178,976
Relocation of a victim	\$59,575	\$87,188	\$446,031
Emergency medical costs and related services	\$2,328	\$5,141	\$18,591
Total	\$204,145	\$298,342	\$643,598

Economic loss

Economic loss payments cover economic losses sustained because of an act of violence. FAS is designed to complement other victims of crime services. FAS also makes direct payments to providers and reimburses applicants for out-of-pocket expenses where applicants have received rebates or financial support from other services—for example, Medicare, private health funds or worker’s compensation.

Table 17: Economic loss payments by reporting year

	2020–21	2021–22	2022–23
Types of economic loss payments	Total of payments made	Total of payments made	Total of payments made
Expenses for counselling or other psychological support	\$30,918	\$30,308	\$110,467
Medical and dental expenses	\$70,678	\$72,497	\$311,172
Travel expenses	\$5,397	\$14,031	\$25,258
Justice-related expenses	\$1,260	\$1,378	\$6,762
Loss of actual earnings (including loss of earnings incurred by a parent or carer of a primary victim)	\$52,930	\$77,733	\$265,914
Reasonable expenses incurred by the parent or carer of a primary victim	\$0	\$0	\$12,486
Loss of or damage to personal items	\$1,334	\$2,785	\$23,300
Other expenses in exceptional circumstances	\$26,933	\$20,364	\$107,083
Expenses, other than legal costs, incurred in making the application	\$31,105	\$4,647	\$1,648
Total	\$220,555	\$223,743	\$864,090

Recognition payments

Recognition payments are lump sum payments that acknowledge harm suffered by a victim of crime. Payment amounts are prescribed by the regulation and increase where one or more circumstances of aggravation exist. Recognition payments fall into offence categories set by the regulation and the *Crimes Act 1900 (ACT)* (Crimes Act). The following table explains the categories of payments and the amounts paid in each category in the reporting period.

Table 18: Recognition payments provided by category, 2021–22 and 2022–23

Category	Offence	Amounts	2021–22	2022–23
Category A	This category includes murder, manslaughter and culpable driving causing death offences.	Payments are made to related victims.	\$0	\$253,806
Category B	This category includes sexual assault and incest offences.	Amounts vary depending on the offence, within the range of \$17,402 and \$30,456.	\$275,177	\$517,728
Category C	This category includes grievous bodily harm, act of indecency and abduction offences.	Amounts vary depending on the offence, within the range of \$9,281 and \$16,241.	\$486,354	\$1,703,313
Category D	This category includes aggravated robbery, kidnapping, acts endangering life, forcible confinement and actual bodily harm offences.	Amounts vary depending on the offence, within the range of \$2,318 and \$4,060.	\$480,952	\$1,485,434
Category E	This category includes robbery, stalking and common assault offences.	Amount for all offences in this category are \$1,158 to \$2,028.	\$116,302	\$579,521
Funeral expenses payments	A person is eligible to apply for a funeral expense payment if the person has paid, or is required to pay, the costs of a funeral for a primary victim who has died as a result of a homicide.	The maximum payment for funeral expenses is \$8,000.	\$25,136	\$40,000
Total payments			\$1,383,921	\$4,579,803

Payments for historic offences (section 203 applications)

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 *Victims of Crime (Financial Assistance) Act 1983*.

There are two different payments that may 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 s. 51 to s. 62 of the *Crimes Act 1900* (ACT), the maximum available recognition payment is \$50,000.

Extremely serious injury

If an act of violence caused an extremely serious injury, the maximum recognition payment is \$30,000. An extremely serious injury results in a permanent impairment of a bodily function, a permanent loss of a bodily function, a permanent disfigurement, a permanent mental or behavioural disorder or the loss of a foetus.

Table 19: Extremely serious injury recognition payments by reporting year

	2020–21		2021–22		2022–23	
	Number of payments made	Value of payments made	Number of payments made	Value of payments made	Number of payments made	Value of payments made
Certain sexual offences	16	\$800,000	17	\$849,979	66	\$3,300,000
Extremely serious injury	0	\$0	3	\$150,000	1	\$30,000

CASE STUDY

Support for relative of a victim

Esther applied for financial assistance as a related victim following the homicide of her husband, seeking a recognition payment and reimbursement of travel expenses incurred travelling to the ACT for related court events. Esther was determined eligible for financial assistance as a related victim because she was the wife of the primary victim. Esther's application was assessed within five days of it being received, based on the extensive information and records available to the FAS, and she was granted a payment in recognition of the trauma and impact of her husband's death.

“ Client feedback

“I am just overwhelmed with bittersweet gratitude for how this will help me in my continuous healing and recovery and help establish some of the future I feel like I'd lost track of with the impact being a victim of these crimes have had on me.”

“I cannot even begin to describe the positive impact that this money will make to my life. Beyond that, the feeling of resolution and validation that this outcome has brought to me is indescribable. Thank you.”

“Those words that I'm believed —I cannot even articulate the healing that this brings.”

Family Violence Safety Action Program (FVSAP)

In the reporting period FVSAP continued to support the safety of adult and child victim-survivors at serious risk of harm or lethality, while supporting collaborative practice with stakeholders. The FVSAP framework focuses on increasing the visibility of domestic and family violence (DFV) perpetrators in the ACT. FVSAP is built on a foundation of listening to, and walking alongside, victim-survivors and amplifying their voices and experiences to increase their safety and inform service system responses.

FVSAP was initially funded by the Commonwealth Government's national partnership on COVID-19 DFV responses in 2020 as a temporary expansion of the ACT Family Violence Intervention Program's case-tracking process. The pilot was evaluated in its first year and, following allocation of ACT Government funding, transitioned to a program in mid-2022. VSACT delivers FVSAP in partnership with DVCS, who have two team members permanently seconded to the VSACT office to deliver FVSAP functions.

FVSAP seeks to:

- enable ACT Government and non-government sectors to collaboratively identify, assess and respond to high-risk 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, including children and young people
- increase the visibility and accountability of DFV perpetrators.

FVSAP 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
- utilising frameworks including the ACT Government Risk Assessment and Management Framework, the Duluth model, MARAC (risk assessment for perpetrators), Safe and Together and trauma-informed and strengths-based practice.

FVSAP delivers short-term case coordination. Referrals into the program can be made by any agency, and matters are also discussed at fortnightly collaborative meetings. At these meetings, agencies commit to specific actions that aim to reduce risk for victim-survivors and to increase visibility of perpetrators. Safety action plans are informed by risk information held by each agency and by input from FVSAP team members including perpetrator response advisors, the program's cultural advisor and FVSAP case coordinators, with a primary focus on what the victim-survivor has identified will assist in reducing risk in their unique circumstances.

FVSAP collaborative meetings are attended by:

- ACTP
- Child and Youth Protection Services (CYPs)
- Housing ACT
- ACT Corrective Services
- DVCS
- Everyman Australia
- Toora Women Inc.
- Legal Aid ACT
- Victim Support ACT.

Other agencies attend where relevant to specific matters. In the reporting period, these have included Child and Family Centre case managers, Karinya House, ACT Together, the VSACT multicultural liaison officer, VSACT Aboriginal and Torres Strait Islander Outreach Program, the CYPs Cultural Services Team, the Education Directorate liaison officer, the Women's Legal Centre, and YWCA.

Perpetrator response

The FVSAP perpetrator response advisor works specifically to improve coordination between perpetrator-focused agencies, increase information sharing and support agency interactions with perpetrators of DFV. Due to an increase in referrals and inquiries and a welcome increased focus on perpetrator visibility and accountability from participating agencies, FVSAP employed a second full-time perpetrator response advisor in the reporting period. In the last 12 months, the perpetrator response advisors have focused on 176 identified perpetrators and coordinated risk information sharing and management strategies with ACT Corrective Services, CYPs case managers, alcohol and drug services and mental health services.

CASE STUDY

Intensive coordinated support

FVSAP received a referral for a victim-survivor who has an intellectual disability, in relation to a high-risk family violence perpetrator. The perpetrator is a well-known family violence offender in relation to multiple women.

The victim-survivor had previously had a child removed, and as a result she experienced a lack of trust in the service system. She also felt disempowered by the service system because of her disability. FVSAP allocated a case coordinator and listed the matter for an FVSAP collaborative interagency meeting. At the collaborative meeting, it became evident that agencies held minimal information about the relationship between the victim-survivor and the perpetrator. This gap in information for the victim-survivor was impacted by her disability and the way services were gathering and documenting information. More than one agency also held information, which suggested that the violent behaviours of the victim-survivor and the perpetrator were 'mutual', despite a wealth of available risk information about the perpetrator's use of high-risk violence against multiple previous partners.

Information shared at the collaborative meeting allowed for identification of a collective picture of risk, which informed an action plan for participating agencies. The perpetrator's past use of violence included refusal to accept relationship separation, post-separation violence including monitoring and stalking, threats to harm pets, physical violence, extreme coercive control, isolation, monitoring, significant alcohol use (which was identified as an escalating factor) and previous systems abuse such as threatening to self-harm or call police on partners. All this information was relevant to the safety of the victim-survivor and allowed agencies to consider how best to support her safety. The FVSAP case coordinator met face-to-face with the victim-survivor and used visual communication tools to explain FVSAP, including its role, the agencies FVSAP works in partnership with and how information is shared.

This allowed the victim-survivor to provide informed consent before her matter was discussed, and she was able to identify what information she wanted shared at the meeting. This careful approach supported the victim-survivor to build trust in the service system and remain in control about how her information was being shared. The FVSAP case coordinator shared risk information with ACTP to support future responses to the perpetrator and shared a communication plan developed with the victim-survivor with ACTP and DVCS to support future engagement with her. The FVSAP case coordinator has created an extensive support plan and has given the victim-survivor a document with options for who she can call in what circumstances.

“ Client feedback

"Thank you so much for your help. You have been such a great comfort and I've felt incredibly supported by you throughout all of this process. You have been my stability as it was easier to talk to one person constantly instead of repeating the same thing to a new person every time and start from scratch."

"My meeting with Housing went really well yesterday. I have been allocated a head lease. I'm finally feeling ready to seek information from police and submit an application for the financial assistance scheme. CYPS are now looking at progressing a restoration plan with me. Thank you for all of the support. I couldn't have done this without you. You were patient and always filled me with confidence that I could take control and get my life back on track. It helped to hear someone reflect that [the perpetrator] was responsible for the violence, and to have someone who could help other agencies understand that. I feel very grateful to FVSAP for all that you have done."

"When I was in the [domestic and family violence], I lost myself and I couldn't see a way out. But worse than that, I stopped caring and I had given up. And then I met FVSAP and everything changed. And things felt possible."

"The ACT has never had this level of coordination. There has never been anything to bring us together around FV matters like this."

Stakeholder feedback

"Thank you for all the work you are doing keeping women and children safe."

"If it weren't for all of your careful engagement with [the client] over time, she would have never picked up the phone to us and we would have never gotten these convictions for this serious recidivist DFV offender. I can't thank you enough."

"Thank you for your unwavering commitment to highlighting all unacceptable forms of abuse/violence/control, for giving victim-survivors a voice and for beautifully challenging unhelpful commentary."

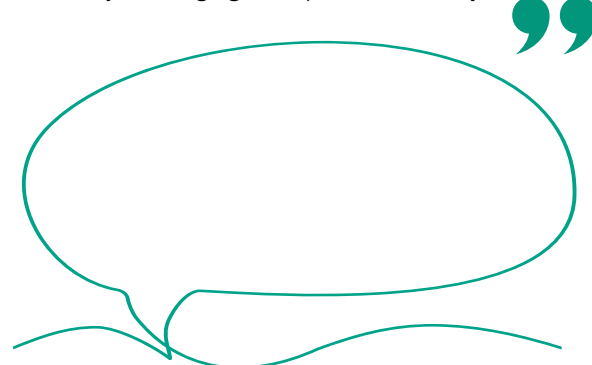
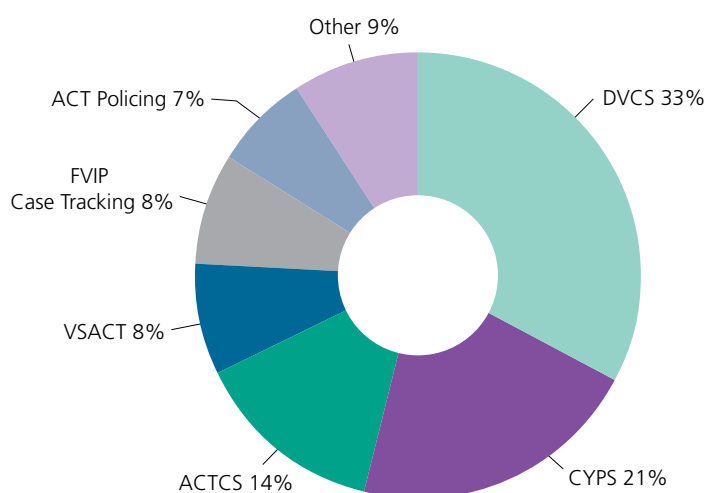


Table 20: Victim-survivor referrals and reviews

	2021–22	2022–23
Number of victim-survivors reviewed by the program (including all referrals to the program, as well as families where referrers contacted the program to discuss possible options and supports)	246 (with 260 children)	274 (with 315 children)
Referrals made to the program that were taken to collaborative meetings. This includes referrals made in writing, by phone and in person.	162	211

Figure 8: Agencies referring clients to FVSAP triage meetings



Note: Other includes referrals from the Education Directorate, drug and alcohol services, the YWCA, and refugees.

Outreach programs

Aboriginal and Torres Strait Islander outreach program

This year the program assisted 179 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 Aboriginal liaison officers' (ALO) 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 has two Aboriginal staff with strong ties and connections to the ACT community, and is assisted by VSACT's outreach social worker, who has extensive experience working with community. The aim of the program is to ensure that Aboriginal and Torres Strait Islander people who are victims of crime in the ACT are able to access VSACT support and assistance in a way that works best for them. This includes meeting with clients and working through all their needs; figuring

out what VSACT and the Commission can do to assist; and linking with other services where clients need wraparound support.

Staff offer practical supports to help people get secure housing, or guide them through the FAS application process to get home security upgrades like crimsafe doors, cameras and lights. Staff also accompany clients to meetings with police and to court; can liaise with police on the client's behalf to ensure clients are kept updated; and can advocate on behalf of clients with other criminal justice agencies. Staff can also arrange for clients to access free counselling through VSS.

The program deals mainly with victims of family violence, sexual assaults and other criminal assaults. Staff also help with police complaints; and provide a line of communication to help clients raise rights from the charter of rights about any criminal justice agency.

Staff attend meetings with people, follow up on Legal Aid and other applications, help get protection orders, and accompany clients to the police station to give a statement or help with a victim impact statement. They are on the end of the phone to debrief our people if something has gone wrong, and to be a support through the whole process of being a victim of crime.

Program staff are available by phone and, as an outreach service, will meet with community members wherever is best. This could be at a local café, a home, Winnunga or another place where clients feel comfortable and safe. Clients can also come and meet with staff at the Commission. Over the next year, the ALOs will be at Winnunga every Monday morning for people to drop in, yarn and seek help. They will also be out and about at NAIDOC, at other community events and at the AMC in recognition of the fact that many people in the jail are victims of crime themselves.

The program team are aware that the trauma experienced by community members because of violent crimes that have been committed against them is compounded by the ongoing trauma carried by Aboriginal people. This arises from Australia's history of colonisation, child removal in the Stolen Generations and ongoing high numbers of Aboriginal people in prison or juvenile detention, as well

as racism and discrimination. The ALO team has worked hard to provide the community with information about how they might benefit from VSACT services; and to create a pathway for individuals and families to access services in a culturally safe place and way. This year, staff have been out and about at:

- Yedding Mura
- Gungan Gulwan
- Winnunga Nimmityjah
- the Bush Healing Farm
- the Nannies Group
- the AMC
- Beryl Women's Refuge
- Ozchild
- Sisters in Spirit
- Tuggeranong Child and Family Centre
- ACT Ambulance Services Yarning Circle
- Barnardos
- ACTCOSS Aboriginal and Torres Strait Islander Network meetings
- Woden Community Centre
- Holy Cross craft and women's group
- Jerrabomberra Wetlands Aboriginal women's group.

CASE STUDY

Building rapport with William

William was an AMC detainee. He was a victim of a serious assault, during which he sustained injuries that resulted in lifelong scarring, and which now act as a visible reminder each day of his assault. William did not receive follow up support for his emotional and mental health after the assault, and now carries ongoing trauma because of it.

The ALO visited and worked with William and built rapport so he would feel safe to disclose his story and accept ongoing support and counselling through VSACT. William said: "It means so much to have people care about me, but you guys come in and make me feel like I matter, I appreciate everything you've done".

CASE STUDY

Trauma from family violence

Mary has been a victim of family violence over many years, and although now safe, she is impacted by the trauma of the violence perpetrated on her in the past. This has led Mary to become socially isolated, and as a result of past experiences, mistrustful of engaging with services. Our outreach social worker visited Mary at home to assist her with an application for FAS assistance to recognise the harm she had experienced from the past violence. Mary mentioned that she feels most comfortable where she is connected to nature. As a result, the outreach social worker meets with Mary by taking walks through nature reserves where she feels more comfortable talking and providing information that helps us to help her.

Disability liaison officer

VSACT strives to ensure our services are accessible and that they meet the diverse needs of our clients. The disability liaison officer's (DLO) role is to ensure clients with disability do not experience barriers in accessing VSACT services. The DLO also builds the capacity of all VSACT team members to offer reasonable adjustments and increase the accessibility of programs.

The DLO sits within the CST and provides case coordination to clients with disability and complex needs. This year there was a 101 per cent increase in the number of VSACT clients who identified as having a disability, compared to last year. VSACT provided case coordination to 212 new clients living with disability and continued work with 260 clients living with disability. Overall, one in five clients who accessed case coordination at VSACT in the past year identified as living with disability.

In addition to delivering services directly to people with disability, the DLO provides training and support to staff

within VSACT to enhance their ability to work with clients with a disability. During this reporting period, the DLO developed a suite of easy-English and plain-language training materials, which will be rolled out to client-facing teams across VSACT. This training enhances the ability of staff to write and communicate with clients in easy and accessible formats.

VSACT has an important role in delivering the ACT Disability Justice Strategy, which aims to ensure equitable access to justice for persons with a disability. The DLO attends the strategy's community of practice (CoP) fortnightly meetings. These enhance collaboration across justice agencies including the ability for services to provide trauma-informed, wraparound supports to clients intersecting with the justice system. CoP members regularly consult with the DLO on appropriate referral pathways, including collaborative approaches that reduce the need for a client to re-tell their story and explain their support needs to multiple agencies.

Figure 9: Clients receiving case coordination who identify as having a disability

Clients provided with case coordination	Clients who identify as living with disability	Total clients
New clients registered for case coordination	212	875
Existing clients with new experiences of violence	83	244
Existing registered clients receiving ongoing service	177	1063
Total	472	2182



1 in 5 of the clients provided with case coordination identify as living with disability



Total clients 2182

Clients who identify as living with disability 472

CASE STUDY

Help leaving a relationship

Tom emailed VSACT asking for counselling after leaving a violent relationship. Tom was concerned for his safety, as the perpetrator had access to firearms and had stalked him.

Tom identified as a person with autism spectrum disorder (ASD), attention-deficit/hyperactivity disorder (ADHD), psychosocial and severe communication and executive functioning impairments.

The DLO emailed Tom, his preferred mode of contact. It was important for the DLO to work with the client's preferences, including the use of alternative communication modes and formats to ensure accessibility of services and accessible information. The DLO explored options for completing an intake using a trauma-informed approach. An in-person intake was completed with Tom and a support person. During the intake, the DLO was able to identify several reasonable adjustments the client required.

Tom was soon connected with a counsellor through the VSS. Through the therapeutic process, Tom started developing strategies to identify and manage the psychological impacts of the abuse he'd experienced. Although Tom came to VSACT for counselling, as part of our integrated service model the DLO was also able to support Tom to:

- apply and receive financial assistance to upgrade his home security
- apply for an FVO with the assistance of a volunteer from the victims justice volunteer support program
- receive joined-up support from other justice agencies within the disability community of practice.

VSACT will remain engaged with Tom until his court matters are finalised and his therapeutic goals are met.

Multicultural liaison officer

VSACT's multicultural liaison officer (MLO) has been instrumental in providing critical support and assistance to individuals from multicultural backgrounds, including newly arrived migrants, refugees, and asylum seekers. The MLO uses a holistic model of culturally sensitive care to empower people who have been impacted by crime, especially those who experienced family violence.

This year, VSACT registered 97 new clients with a migrant or refugee background and continued to support 172 clients, equating to over 12 per cent of VSACT clients accessing case coordination. The top five languages, other than English, spoken by VSACT clients were Arabic, Mandarin, Hindi, Persian/Dari, Urdu.

Recognising the importance of cultural understanding, the MLO underwent continuous training and collaborated with staff members, community leaders and organisations to ensure that all services provided were culturally sensitive and respectful of diverse traditions and values.

The MLO conducted educational workshops on cultural diversity and family violence, both within the organization and in the wider community. These workshops aimed to increase awareness, reduce stigma and promote inclusive practices.

Responding promptly to crisis situations, the MLO played a vital role in assisting people impacted by family violence

with access to emergency accommodation, counselling services and legal advice, ensuring they received immediate support and protection.

The MLO accompanied people who have been impacted by crime to court proceedings, providing support and acting as a liaison with the different criminal justice agencies. This enabled VSACT clients to navigate the legal process confidently and have their voices heard.

Building strong partnerships with various agencies, including police, lawyers, healthcare services, crisis agencies and community organisations, the MLO ensured seamless coordination of services to effectively address clients' unique needs.

To overcome language barriers, the MLO facilitated interpreting services, allowing clients with limited English skills to communicate their experiences accurately and access support services without barriers.

The MLO assisted clients from multicultural backgrounds to develop personalised safety plans, ensuring they had the necessary resources and strategies to protect themselves from further harm.

Engaging with multicultural communities, the MLO actively participated in events, cultural celebrations and forums to raise awareness about support services available and promote collaborative solutions.

Recognising the need for systemic change, the MLO engaged in advocacy efforts to influence policies and practices that address the unique challenges faced by people who have been impacted by crime from multicultural backgrounds.

The MLO's activities have been crucial in bridging gaps, breaking down barriers and empowering clients from multicultural backgrounds to rebuild their lives with confidence. The impact of these activities extends beyond individual cases, fostering a more inclusive and supportive community for everyone we serve.

Examples of community outreach activities conducted by the MLO include:

- Setting up information stalls and participating in local cultural events (National Multicultural Festival, Eid celebrations, China National Day, Refugee Week and Harmony Day) to engage with diverse groups and build trust and awareness within various communities.
- Delivering regular cultural awareness training sessions to VSACT staff. Examples of topics covered include family violence in the Middle East, South Asia, Africa and Southeast Asia; criminal justice systems in Syria and Egypt; honor killings in Syria and Jordan; divorce in South Korea; and family dynamics in India.
- Attending informal community meetings to introduce our services and address concerns. The MLO met with Bosnian, Afghani Hazara, South Sudanese, Lebanese, Syrian, Chinese, Indian and Iraqi communities.
- Partnering with MARSS to deliver workshops on safety and victim rights in the ACT.
- Conducting weekly outreach at the Theo Notaras Multicultural Centre in Civic, Denman Prospect, Coombs, Gungahlin and Monash to ensure members of our multicultural communities are informed about available support.
- Advocating for victim rights on a national level with the Settlement Council of Australia and Migration Council of Australia.
- Advocating for victim rights as a member of the Multicultural Advisory Council.
- Advising different community organisations and government agencies on how to effectively support migrants who have been impacted by crime, including the ACT Domestic, Family, and Sexual Violence Office, CYPS, Relationships Australia, DVCS, Multicultural Hub, Legal Aid ACT and ACTP.



VSACT staff at the Unleash the Resilience of Multicultural Canberra Expo in August 2022.

Victim rights and reform

The VOCC is tasked under section 11 of the VoC Act to promote reforms to meet the interests of people affected by crime, including advocating for improved victim engagement with the criminal justice system.

Charter of Rights for Victims of Crime

The Charter of Rights for Victims of Crime, which commenced in January 2021, is contained in the *Victims of Crime Act 1994*. It secures practical improvements for victim engagement in the justice system by protecting victim rights to information, participation, respect and access to services. It acknowledges the central role that victims play in the justice system and is a significant step forward in strengthening the ACT's human rights framework to better uphold the rights of victims of crime.

The charter is the most comprehensive, legislated set of rights for victims of crime in Australia and contains specific rights relating to:

- respect, privacy and safety of victims
- victim access to support services and other forms of assistance
- providing information to victims about justice processes
- updating victims about individual investigations, proceedings and decisions made in the justice system
- victim participation and the right for victims to be consulted or heard at specific stages in proceedings.

Victims of crime who believe their rights under the charter have been breached may raise a concern or complaint with the VOCC or VSACT; make 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 raise a complaint directly with the relevant justice agency. Where concerns are raised, VSACT staff work to understand the issues involved, liaise with the relevant justice agency and take steps to resolve the concern.

All justice agencies, including VSACT, have received permanent funding to meet their obligations under the charter. In VSACT, a part-time victim rights advocate is funded to work closely with counterparts in other justice agencies, to ensure victim concerns are resolved effectively and efficiently. The advocate also promotes community education about the charter to raise awareness and understanding of victim rights in the ACT. This includes training staff at community legal organisations, government agencies such as CYPs and Housing ACT, youth workers and other service providers who regularly come into contact with victims of crime.

CASE STUDY

Workplace assault

Blake's work colleague assaulted them and subjected them to sustained sexual harassment. Police attended Blake's workplace to respond to the assault. Blake explained to their VSACT case coordinator that they were distressed after being assaulted, and felt that the police officer was disrespectful, questioning them in a way that insinuated they were somehow responsible for the abuse. Blake was concerned the officer would treat other victims in the same way and wanted the officer to receive training about engaging with victims.

ACTP responded to Blake's concerns by facilitating training on sexual violence and trauma-informed practice for the officer and allocating him with a mentor. Blake felt that their concern had been heard by police and was pleased that the training would improve the officer's future engagement with sexual assault victims.

Charter reporting

In this reporting period, a total of 88 victims rights concerns were raised with VSACT and most related to ACTP (67 concerns). These were most commonly related to the right for respectful engagement with victims with appropriate regard to their personal situation, needs, concerns, rights and dignity (section 14C); and the right to be kept updated about the status of the police investigation (section 16A).

Table 21: Victims rights concerns raised with VSACT by agency

Justice agency	Number of concerns raised with VSACT
ACTP	67
DPP	13
Court (in administrative capacity)	3
Victim Support ACT	3
Sentence Administration Board	2

Note: some of the concerns raised may be about more than one right, and some victims of crime have raised more than one concern, for example, in relation to different justice agencies or at different stages in the criminal justice process.

Section 18J of the VoC Act requires VSACT to report on each victims rights concern raised with VSACT, the specific rights in relation to the concern raised, whether VSACT resolved the concern, and whether VSACT referred the concern under section 18G of the VoC Act to another entity. This is reported in Table 22.

Table 22: Victims rights concerns raised with VSACT (reported under s18J(1) VOC Act)

	Charter right in relation to which the concern was raised	Concern resolved in reporting period?	Entity concern referred to under s18G(3)
1.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Updating victims about bail decisions (see s16C)	Yes	Nil
2.	Police to update victims about status of investigations (see s16A)	Yes	Nil
3.	Respectful engagement (see s14C)	Yes	Nil
4.	Respectful engagement (see s14C)	Yes	Nil
5.	Respectful engagement (see s14C)	No	Nil
6.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Updating victims about bail decisions (see s16C)	No	Nil
7.	Respectful engagement (see s14C)	No	Nil
8.	Respectful engagement (see s14C)	Yes	Nil
9.	Respectful engagement (see s14C)	Yes	Nil
10.	Provision of aids or adjustments (see 15A), Police to update victims about status of investigations (see s16A), Informing victims about administration of justice processes (see s15D), Referral of victims to support services (see s15)	Yes	Nil
11.	Consider victim's views about dealing with charges (see s16B), DPP to give information to victim witnesses (see 15E)	Yes	Nil
12.	Police to update victims about status of investigations (see s16A), Informing victims about administration of justice processes (see s15D)	No	Nil
13.	Respectful engagement (see s14C), Informing victims about administration of justice processes (see s15D)	No	Nil
14.	Storage and return of victims property (see s14G)	No	Nil
15.	Respectful engagement (see s14C)	No	Nil
16.	Respectful engagement (see s14C)	No	Nil
17.	Police to give written confirmation to victims reporting offences (see s16)	Yes	Nil
18.	Respectful engagement (see s14C), Provision of aids or adjustments (see 15A)	Yes	Nil
19.	Respectful engagement (see s14C)	No	Nil
20.	Police to update victims about status of investigations (see s16A)	No	Nil
21.	Written confirmation to victims reporting offences (see s16), Police to update victims about status of investigations (see s16A)	Yes	Nil
22.	Respectful engagement (see s14C)	Yes	Nil
23.	Respectful engagement (see s14C)	No	Nil
24.	Minimising victims exposure to accused (see s14I)	No	Nil
25.	Respectful engagement (see s14C)	Yes	Nil
26.	Respectful engagement (see s14C), Presenting victims concerns about protection in bail submissions (see s17)	No	Nil
27.	Respectful engagement (see s14C)	No	Nil
28.	Respectful engagement (see s14C)	No	Nil

	Charter right in relation to which the concern was raised	Concern resolved in reporting period?	Entity concern referred to under s18G(3)
29.	Respectful engagement (see s14C)	Yes	Nil
30.	Respectful engagement (see s14C)	No	Nil
31.	Presenting victims concerns about protection in bail submissions (see s17)	No	Nil
32.	Respectful engagement (see s14C), Referral of victims to support services (see s15)	No	Nil
33.	Respectful engagement (see s14C), Provision of aids or adjustments (see s15A), Referral of victims to support services (see s15), Police to update victims about status of investigations (see s16A)	No	Nil
34.	Respectful engagement (see s14C), Respectful engagement with child victims (see 14D), DPP to tell victims about hearings (see 16D)	No	Nil
35.	Respectful engagement (see s14C), Respectful engagement with child victims (see 14D)	No	Nil
36.	Respectful engagement (see s14C), Respectful engagement with child victims (see 14D), Police to update victims about status of investigations (see s16A)	No	Nil
37.	Police to update victims about status of investigations (see s16A)	No	Nil
38.	Police to update victims about status of investigations (see s16A)	No	Nil
39.	Respectful engagement (see s14C)	No	Nil
40.	DPP to tell victims about hearings (see 16D)	No	Nil
41.	Respectful engagement (see s14C)	No	Nil
42.	Respectful engagement (see s14C)	No	Nil
43.	Respectful engagement (see s14C)	Yes	Nil
44.	Respectful engagement (see s14C)	No	Nil
45.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Informing victims about administration of justice processes (see s15D), Updating victims about bail decisions (see s16C)	Yes	Nil
46.	Police to update victims about status of investigations (see s16A)	No	Nil
47.	Respectful engagement (see s14C)	No	Nil
48.	Respectful engagement (see s14C)	Yes	Nil
49.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A)	No	Nil
50.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A)	No	Nil
51.	Respectful engagement (see s14C)	No	Nil
52.	Respectful engagement (see s14C)	No	Nil
53.	Respectful engagement (see s14C), Provision of aids or adjustments (see s15A)	No	Nil
54.	Respectful engagement (see s14C)	No	Nil
55.	Respectful engagement (see s14C), Respectful engagement with child victims (see 14D)	No	Nil
56.	Provision of aids or adjustments (see s15A)	No	Nil
57.	Respectful engagement (see s14C)	No	Nil

	Charter right in relation to which the concern was raised	Concern resolved in reporting period?	Entity concern referred to under s18G(3)
58.	Respectful engagement (see s14C)	No	Nil
59.	Respectful engagement (see s14C)	Yes	Nil
60.	Respectful engagement (see s14C), Provision of aids or adjustments (see s15A), Police to update victims about status of investigations (see s16A), Informing victims about administration of justice processes (see s15D), Referral of victims to support services (see s15)	No	Nil
61.	Updating victims about bail decisions (see s16C)	No	Nil
62.	Police to update victims about status of investigations (see s16A), Provision of aids or adjustments (see s15A),	No	Nil
63.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Written confirmation to victims reporting offences (see s16), Informing victims about administration of justice processes (see s15D), Referral of victims to support services (see s15), Updating victims about bail decisions (see s16C)	No	Nil
64.	Respectful engagement (see s14C)	No	Nil
65.	Respectful engagement (see s14C)	No	Nil
66.	Police to update victims about status of investigations (see s16A)	No	Nil
67.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A)	No	Nil
68.	Police to update victims about status of investigations (see s16A)	No	Nil
69.	Respectful engagement (see s14C)	No	Nil
70.	Respectful engagement (see s14C), Victims privacy (see 14F), DPP to consider victims views about dealing with charges (see 16B), DPP to tell victims about decisions to discontinue prosecution (see s15G), DPP to tell victims about hearings (see 16D), DPP to give information to victim witnesses (see 15E), Minimising victims exposure to accused (see s14I), DPP to tell victims about outcomes of trials and appeals (see s16F), DPP to tell victims about orders relating to mental health (see s16L), Victims appearance at preliminary or committal hearings (see 14H)	No	Nil
71.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Written confirmation to victims reporting offences (see s16), Informing victims about administration of justice processes (see s15D), Referral of victims to support services (see s15).	No	Nil
72.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Informing victims about administration of justice processes (see s15D), Referral of victims to support services (see s15).	No	Nil
73.	Respectful engagement (see s14C)	No	Nil
74.	Telling victims about parole or release on licence decisions (see s16H)	No	Nil
75.	Respectful engagement with child victims (see 14D)	Yes	Nil
76.	Respectful engagement (see s14C), Written confirmation to victims reporting offences (see s16)	No	Nil
77.	Respectful engagement with child victims (see 14D)	No	Nil
78.	Respectful engagement (see s14C), Provision of aids or adjustments (see s15A)	No	Nil

	Charter right in relation to which the concern was raised	Concern resolved in reporting period?	Entity concern referred to under s18G(3)
79.	Respectful engagement (see s14C)	No	Nil
80.	Respectful engagement (see s14C)	No	Nil
81.	Respectful engagement (see s14C)	No	Nil
82.	Respectful engagement (see s14C), Police to update victims about status of investigations (see s16A), Written confirmation to victims reporting offences (see s16), Informing victims about administration of justice processes (see s15D), Minimising victims exposure to accused (see s14I)	No	Nil
83.	Respectful engagement (see s14C)	Yes	Nil
84.	Respectful engagement (see s14C)	Yes	Nil
85.	Respectful engagement (see s14C)	No	Nil
86.	Respectful engagement (see s14C)	No	Nil
87.	Presenting victims concerns about protection in bail submissions (see s17)	Yes	Nil
88.	Police to update victims about status of investigations (see s16A)	Yes	Nil

Note: We record a concern as resolved where the victim of crime is satisfied with the outcome. In some cases, despite undertaking advocacy with the justice agency involved, the victim of crime remains unsatisfied with the outcome and here we record the concern as unresolved.

Section 18I of the VoC Act also requires VSACT to record and report on victims rights complaints it has received. In the reporting period, VSACT received three victim rights complaints about a victim's right to be engaged with respectfully and with appropriate regard to their personal situation, needs, concerns, rights and dignity (section 14C). All three complaints were successfully resolved.

Victims registers

The victims registers facilitate the provision of information and support to victims of crime in relation to management of an offender's sentence. They also support victim participation in decisions made about the offender, including decisions made by the Sentence Administration Board, ACAT and ACTCS. The registers play a crucial role in assisting people affected by crime to make practical decisions about their safety and to ensure they are offered appropriate supports and services by justice agencies.

There are three victims registers in the ACT: the adult offenders victims register, the youth justice victims register and the affected persons register. The registers are administered under the *Crimes (Sentence Administration) Act 2005*, the *Mental Health Act 2015* (MH Act), the *Children and Young People Act 2008* and the VoC Act. The legislation balances victim rights to information and participation in post-sentencing and other decisions with offender rights, which will differ according to whether the offender is an adult, a youth offender or a forensic patient.

The victims registers have historically been administered separately by ACTCS, CSD and ACAT. In 2022, the adult offenders register and youth justice register transferred to VSACT to enhance efficiencies and enable a more victim-centric administration of the registers. The affected persons register is expected to transfer to VSACT shortly, to further streamline processes and improve victim engagement.

In the reporting period, VSACT received permanent funding for the victims register team which consists of the victims register manager and three victims register advocates. The team are responsible for administering the registers, including:

- providing information on the nature and length of the offender's sentence, including any changes to the management of their sentence or their earliest release date
- providing information and support for victims to prepare submissions where an offender has applied for release on parole or to participate in the transitional release program
- providing timely updates on the outcomes of inquiries and hearings where an offender has applied for release on parole or release on licence
- providing information regarding the implementation and monitoring of community-based sentences, such as intensive corrections orders, drug and alcohol treatment orders and good behaviour orders

- case coordination and facilitating referrals to additional supports such as counselling and financial assistance
- facilitating victim input into requests by the offender to ACTCS that may affect the victim's safety and wellbeing, such as temporary leave requests, the appropriateness of proposed addresses and requests for interstate travel.

When the adult offenders register transferred to VSACT in November 2022 there were 149 people on the register. By the end of the reporting period, there were 223 people on the register, representing a 50 per cent increase in the number of people registered. Throughout the reporting period, VSACT registered an additional 106 eligible victims; and removed 32 people from the register who became ineligible to be registered due to the expiration of the offender's sentence or who requested to be removed.

CASE STUDY

Adult offenders register

Trin was on the adult offenders register in relation to an offender who was serving a community-based order for a personal violence offence against her.

The victims register advocate contacted Trin after being notified that ACTCS was considering suspending the supervision condition of the order. At Trin's request, the advocate told ACTCS about her distress at the thought that the offender would not be supervised; and the detrimental impact on Trin's sense of safety in the community. After considering Trin's concerns, ACTCS decided not to suspend the supervision condition. Trin appreciated her voice being heard and her concerns taken seriously.

The youth justice register transferred from CSD to VSACT in May 2022. The register had previously not had any significant victim engagement, but by the end of the reporting period, VSACT had registered four victims of youth offenders.

Upcoming reform related to raising the minimum age of criminal responsibility will further impact the operation of the youth justice register. The team look forward to working with stakeholders to ensure that people affected by harmful behaviour of children continue to be able to access information relevant to promoting their safety.

The victims register team has also assisted ACAT to administer the affected persons register and meet its obligations under the MH Act and the VoC Act. A victim is eligible to be on the affected persons register once the court requires the offender or defendant to submit to the

jurisdiction of the ACAT; or for the matter to be reviewed by the ACAT, which may occur if the defendant or offender did not have the mental competence or ability to commit the offence or stand trial. In this situation, the victim may be known as an affected person, and the offender or defendant may be known as a forensic patient.

The victims register team assist ACAT by providing information to registered victims or affected persons when ACAT is in the process of making or reviewing a mental health order or a conditional release order. The team also inform affected persons of their rights to participate in ACAT hearings; and can attend on their behalf to ensure their views and concerns can be raised and considered by ACAT. Advocates ensure that affected persons are given the outcome of hearings, including any changes made to the forensic patient's mental health order or any other ACAT decisions that may affect the person's safety and wellbeing—for example if a forensic patient is to be released from custody to receive community-based treatment.

CASE STUDY

Affected persons register

Ben was found not guilty by way of mental impairment for an offence that resulted in serious harm to Garry. A few years later Garry informed VSACT that he was shocked to see Ben at his local shops, as he thought he was residing at a secure mental health facility. He expressed concerns for his safety and was worried about what might happen if he ran into Ben again.

Garry registered on the affected persons register and the victims register advocate spoke with Garry about options for raising his concerns at an upcoming ACAT hearing. Garry requested the advocate seek information and represent his views at the hearing. The advocate was able to confirm that Ben had been granted exceptional leave to Garry's local shops on the day Garry saw him. Ben's treating team also confirmed that this area was not a regular area Ben would visit on leave. The advocate helped Garry to give the panel assessing Ben's leave requests a list of key places that Garry was concerned about. Garry reported feeling safer, knowing that his concerns were raised with ACAT and would be considered in Ben's future leave requests.

Sexual assault prevention and response

In December 2021 the Sexual Assault Prevention and Response (SAPR) steering committee presented the *Listen. Take Action to Prevent, Believe and Heal* report to the ACT Government. The government accepted most of the report's wide-ranging recommendations for improving sexual assault prevention and response in the ACT.

In May 2022, the government established the sexual assault (police) review in response to recommendation 15 of the SAPR report. The review is led by an oversight committee which consists of the Chief Police Officer (CPO), the DPP, the VOCC, the Domestic, Family and Sexual Violence Coordinator-General and is chaired by Ms Karen Fryar AM and Dr Christine Nixon AO. The review examines reports of sexual violence made to ACTP between 1 July 2020 and December 2021 that did not progress to charge. Victims who reported sexual violence to ACTP outside of the above period and whose matter did not progress to charge are also able to self-refer and be included in the review.

The key objective of the review is to identify systemic reasons for the ACT's high attrition rates of reported sexual crime. The review consists of two stages: an investigation case analysis which reviews ACTP records to identify whether any further investigation is appropriate; and a process review led by Dr Rachael Burgin from Swinburne University and supported by ACTP and VSACT. The process review aims to identify ways to strengthen police responses from an independent review of police records and consultations with eligible victim-survivors.

VSACT received temporary funding for additional staff members, over the reporting period for the review (fluctuating between 3.5 and 4.5 staff members) and has played a key role in both stages of the review. Staff initially worked with partner agencies to undertake research and define the parameters of the investigation case analysis and continue to work intensively with agencies to manage the daily operational side of the review. Staff also assist Dr Burgin with the process review and its data collection; and engage with community members and victim-survivors in relation to the review. Staff provide information and supports to victim-survivors, including counselling, financial assistance and support with any police re-investigation or re-engagement. All VSACT engagements with victim-survivors, including any supported engagements with ACTP, are guided by the individual needs and wishes of the victim-survivor. The review provides access to VSACT supports and services to all victim-survivors and has successfully facilitated renewed access to the justice system for some victim-survivors.

CASE STUDY

Sexual assault prevention and response

Gabriela reported a sexual assault to police between July 2020 and December 2021. At the time, Gabriela felt that the police officer was not respectful. Gabriela was informed that the investigation would be closed as the matter would not go well in court. Gabriela was disillusioned with the criminal justice process and was upset that the matter would not proceed. She felt that the reason provided by police for closing the investigation was neither clear nor sufficient.

A VSACT SAPR adviser contacted Gabriela to provide information about the review. After several conversations with the adviser, Gabriela chose to re-engage with ACTP through the review. At Gabriela's request, the adviser accompanied Gabriela to meet with police and supported her with ongoing engagement.

Gabriela had spent a significant amount of money on psychological support since the sexual assault and the adviser assisted Gabriela to apply to FAS to reimburse her expenses and access future free, ongoing counselling through VSACT. Gabriela appreciated the opportunity to re-engage with the justice system, with the right supports in place.

Law and policy reform

The voices and experiences of victims of crime are crucial in informing the VOCC's advice to the ACT Government and other agencies, to advocate for the interests of victims under section 11 of the VoC Act. During the reporting period, the VOCC provided advice to the ACT Government and other agencies about a broad range of policy and legislative reform proposals to advance positive, systemic improvements for victims of crime in the ACT, including:

- participating in the inquiry into the Sexual Assault Reform Legislation Amendment Bill 2022 to support reforms to improve justice processes for victim-survivors of sexual violence
- participating in roundtable discussions with stakeholders in relation to the Sexual Assault and Family Violence Legislation Amendment Bill 2023 to advocate for the rights and interests of victim-survivors
- supporting the inclusion of various law reform recommendations from the SAPR report in the Sexual Assault Reform Bill 2022
- advising on the proposed law reforms regarding defamation and absolute privilege for people reporting sexual violence

- participating in the inquiry into dangerous driving to support reforms to improve access to therapeutic and case coordination supports for people bereaved by serious motor vehicle offences
- participating in the inquiry into road safety and the Crimes Legislation Amendment Bill 2022, to support reforms strengthening frameworks for the reporting and monitoring of driver fitness to hold a licence
- participating in the inquiry into the Corrections and Sentencing Legislation Amendment Bill 2022 to advocate for safeguards for victim-survivors in the use of ACTCS discretion in reporting breaches of good behaviour orders
- advocating for the rights and interests of victims of crime in ACTCS policies, for example, in relation to discretion in reporting breaches of good behaviour orders
- participating in inter-agency working group meetings to represent the rights and interests of victim-survivors in developing and implementing information sharing legislation in relation to DFV matters
- participating in the inquiry into the Justice and Community Safety Legislation Amendment Bill 2022 (No. 2), to advocate for procedural protections and agency regarding the way in which a complainant's evidence is used in subsequent proceedings, by enabling recorded evidence given live in a courtroom to be used in a related proceeding
- advising on proposed reforms to the *Juries Act 1967* (ACT) to support the introduction of majority verdicts in the ACT
- advising on the development of the Crimes Legislation Amendment Bill 2023 to provide guidance on the proposal to introduce a firearms prohibition order scheme and the potential impact upon the safety of domestic and family violence victim-survivors
- advocating for reform regarding the use of good character evidence in family violence proceedings where an offender's good character has enabled the offending to remain undetected.

Boards and committees

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

Family Violence Intervention Program

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. The FVIP case-tracks individual family violence matters on a weekly basis and promotes systemic change through the FVIP coordinating committee, which the VOCC chairs. The committee members include ACTP, DPP, ACT Courts, ACTCS, Legal Aid ACT, DVCS, JACSD and the Coordinator-General for Domestic, Family and Sexual Violence.

Sexual Assault (Police) Review Oversight Committee

See page 75.

Victims Advisory Board

The VOCC is a member of the board, which supports the ACT Government to promote the rights and interests of victims of crime; and consists of government, justice agency and community members. VSACT works closely with the board's community members to ensure they have the opportunity to present their views and interests to the board.

National Victims of Crime Working Group

The VOCC is a member of the working group, which consists of victims of crime commissioners from each state and territory, and which shares learnings and provides coordinated responses to national issues.

Domestic Violence Prevention Council

The VOCC is a member of the Council and contributes to the Council's ongoing work to prevent family violence.

Liquor Advisory Board

The VOCC is a member of the board, advocating for the rights and interests of victims of crime in preventing and responding to alcohol-fuelled violence.

Coronial reform

The VOCC is the honest broker for the ACT's first restorative design program in the area of coronial reform. Part of the honest broker role is housing the program's independent facilitator, Mr Alistair Legge, who was appointed to lead the restorative design process. Mr Legge is facilitating the collaborative work of community advocacy groups, individual community members, ACT Courts, ACTP, JACSD and a range of other agencies and organisations who come into contact with the coronial process, towards the design of a better coronial response.

ACT Intermediary Program

Highlights

INTERMEDIARY PROGRAM

52% increase in referrals compared to last year



375 referrals, including **322 from ACT Police**

99% of referrals to the program were matched and **69%** of referrals were matched with an intermediary in under 24 hours



51% of police referrals related to sexual assault and **49%** of referrals related to physical assault, violent offences or homicide

The program operates 24 hours a day, seven days a week to provide witness intermediaries at police interviews and in court matters. Intermediaries are accredited professionals and impartial officers of the court who are specially trained to facilitate the communication of vulnerable witnesses. Intermediaries are experienced at facilitating the communication of very young people, and people with language delays, learning disabilities, ADHD, autism spectrum disorder, trauma and many other communication barriers. All intermediaries have undertaken rigorous training to become accredited and come from a diverse range of allied health and other professional backgrounds, including speech pathology, social work, psychology and occupational therapy.

The program was recognised for its important work when it won the ACT Chief Minister's inaugural *Sue Salthouse Award for Championing Human Rights* in December 2022. The award recognised the hard work undertaken by the in-house intermediaries at police, court and legal professional engagements. In-house intermediaries are ably supported by an additional cohort of panel intermediaries who are called on for out of business hours work.

The impact of the program was further recognised in June 2023, when it received confirmation of additional funding to facilitate the expansion of its services to vulnerable accused. This expansion will make the ACT the first Australian jurisdiction to undertake work with vulnerable accused.

The program has raised its profile with the continued delivery of tailored training and information sessions to a variety of criminal justice stakeholders including the DPP,

Legal Aid ACT, ACTP and ACT Courts. The program has also delivered sessions to the disability liaison officers' community of practice, Canberra Rape Crisis Centre and CYPS.

The program provides monthly continued professional development (CPD) opportunities for intermediaries to ensure their practice is high-quality and aligns with best practice. The quality of this training is reflected in the fact other Australian jurisdictions ask for their intermediaries to participate. The ACT has strong interjurisdictional connections both nationally and abroad and the program director helped train the new cohort of intermediaries in NSW in May 2023, as NSW expanded their scheme state-wide.

The program has contracted the University of Sydney to undertake an independent, external evaluation with a final report being delivered mid-2024.



ACT Intermediary Program staff.

Police

Intermediaries are on call 24 hours, seven days a week—including on public holidays—to respond to police referrals. Intermediary services are regularly requested by police stations across the ACT, with most requests coming from ACTP's sexual assault and child abuse team (SACAT). Intermediaries provide their communication facilitation services at police stations, hospitals, schools, private homes and any other location where police need to conduct an investigative interview.

Courts

Intermediaries continue to be appointed in Supreme Court and Magistrates Court matters involving vulnerable witnesses and complainants. In 2022–23, the program also received requests from the ACT Childrens Court.

Once appointed in a court matter, intermediaries conduct a communication assessment with the witness, in the presence of a responsible third party. The evidence is not discussed during this process. The intermediary then prepares and submits a report to the court, outlining a number of recommendations for the judicial officer and parties to consider when questioning the witness.

Discussion regarding these recommendations takes place between the judicial officer, parties to the matter and the intermediary at a pre-trial ground rules hearing, prior to the questioning of the witness at the hearing or trial.

Recommendations made by the intermediary, and directed by the judicial officer, provide guidance on things such as how questions should be formulated, how long questioning should take place, the type of complex language to avoid, as well as any other considerations for the witness during the questioning process. If any of the directions ordered by the judicial officer are not followed, the intermediary is able to intervene and request the question be asked in a way which adheres to the directions.

Table 23: ACT Intermediary Program data

Total referrals
375 referrals including 322 recorded police referrals, 25 Supreme Court referrals, 21 Magistrates Court referrals, 5 Childrens court referrals and 2 lawyer referrals
Police referrals
All police referrals related to complainants and witnesses.
<ul style="list-style-type: none"> 80% of referrals were evidence-in-chief interviews 20% of referrals were meet and greets
<ul style="list-style-type: none"> 23% of referrals were conducted out of hours including referrals received or conducted: <ul style="list-style-type: none"> after 5pm on weekdays any time on weekends on public holidays. For out of hours referrals, the average length of engagement is 3.5 hours. For business hours referrals, the average length of engagement is 3 hours.
<ul style="list-style-type: none"> 51% of referrals related to sexual assault 49% of referrals related to physical assault, violent offences or homicide
<ul style="list-style-type: none"> 99.9% of referrals were matched (intermediary was allocated); and one was unmatched. However, police decided to terminate this interview and await intermediary assistance 69% of referrals were matched with an intermediary in less than 24 hours
Court and lawyer referrals
<ul style="list-style-type: none"> The program received 25 Supreme Court matter requests, 21 Magistrates Court matter requests, 5 Childrens Court requests and 2 lawyer referrals. 52 requests were made relating to complainants and witnesses, while one referral related to an accused. 28 referrals related to sexual assault and 25 to family violence, homicide or other violent offences. 34 ground rules hearings were completed and 24 hearings involving intermediaries were completed The Supreme, Magistrates and Childrens Courts were given 39 intermediary communication recommendation reports.
Demographics (court)
<ul style="list-style-type: none"> 74% of referrals identified as female; and 26% identified as male 7% of referrals identified as Aboriginal or Torres Strait Islander 11% of referrals involved a person from a culturally and linguistically diverse background
Communication issues (all referrals)
<ul style="list-style-type: none"> 54% of referrals involved a person with a communication issue other than age 43% of referrals indicated mental health issues and trauma as communication issues

CASE STUDY

Complainant in a sexual offence matter

RK, aged 20, had communication needs relating to mental health, trauma, unclear speech, an acquired brain injury and a physical disability. Police requested the assistance of an intermediary for RK's police interview.

The intermediary conducted a communication assessment with RK and observed that RK had difficulty sequencing events in order, and remaining on topic. RK also had difficulty with complex language and required additional time to process questions and respond. The intermediary also observed that fatigue affected RK's focus and attention and recommended that if a recorded interview occurred, it should be on a separate day and with frequent breaks.

The intermediary outlined their recommendations to the police officer regarding the types of resources which would facilitate RK's participation in an evidence-in-chief interview. This included the use of post-it notes to create a visual timeline and help RK to create a chronological order of events. The intermediary also recommended that RK hold individual post-it notes, related to each event, so they could focus on one event at a time and remain on topic.

The use of drawing to supplement or clarify any verbal statements made by RK was also implemented during the interview, in addition to environmental considerations given RK's physical disability.

By implementing a variety of strategies during the evidence-in-chief interview, RK participated effectively to provide their evidence. After the interview, RK told the interviewing officer that they were grateful for the intermediary's involvement, and that the adjustments to the process assisted them to fully participate.

CASE STUDY

Witness in a police interview & court proceedings

TG, aged 43, had communication difficulties including a language disorder, unclear speech, physical disability and trauma. Due to the difficulty TG had formulating words, they found it easier to respond to questions with "yes" and "no". The intermediary's engagement took place on three separate occasions: undertaking a communication assessment; participating in a meet and greet with interviewing officers; and facilitating TG's communication during a police interview.

During the communication assessment, the intermediary established that TG exerted significant physical effort to produce speech and found some speech sounds difficult. TG could verbalise short sentences, utilise gestures to demonstrate actions and point to basic visual aids to convey answers such as "I don't know," and "I don't remember".

During the interview, police officers implemented the intermediary's recommendations including allowing sufficient time for TG to commence and complete responses to questions; approaches for clarifying information when TG's speech was difficult to understand; and the use of visual aids for "I don't know" and "I don't understand". With these accommodations, TG participated in a two-hour police interview, with regular breaks. The matter subsequently progressed to court.

An intermediary was appointed for the court matter, and the same intermediary was involved to facilitate TG's communication during questioning. The intermediary conducted two communication assessments with TG. Recommendations made by the intermediary included the need for parties at court to provide sufficient time for TG to respond (TG could take up to a minute to commence their responses); and approaches for lawyers to clarify TG's verbal responses.

The intermediary's report also outlined considerations for the court relating to wheelchair accessibility for TG during questioning; and how technology in the remote witness suite could be used to ensure TG's use of visual aids was visible to those in the courtroom.

Prior to TG's questioning at court, lawyers consulted extensively with the intermediary about how the recommendations could be applied to ensure TG's effective participation.

CASE STUDY

Teenage witness in a sexual assault matter

CC's referral to the program indicated age and autism as factors which may impact their communication.

Police indicated to the intermediary that they were unsure if CC would engage, given their limited verbal responses and reluctance to maintain eye contact. CC also remained in the corner of the interview room.

The intermediary recommended to police that they focus on rapport-building initially, which the intermediary could assist with while undertaking their communication assessment. During this process, the intermediary was able to identify CC had a special interest, which is common in those who are autistic. They did the assessment by focusing on this area of interest, and in allowing CC to draw so they didn't have to make eye contact, but were still able to engage.

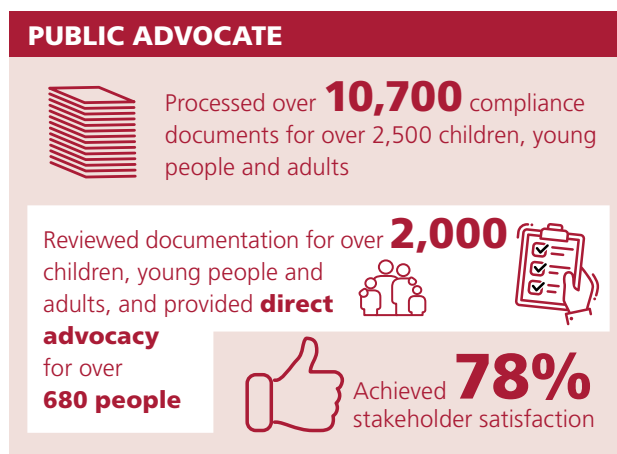
The intermediary observed CC found it easier to answer questions when they weren't required to make eye contact, and recommended CC answer questions while drawing and colouring-in during the police interview.

The intermediary also recommended that the pace of questions slow down; clear pauses be taken after the questions were asked; that CC be given time to complete their responses in totality; and that a voice volume chart be used, as CC had a quiet speaking voice and needed frequent reminders to increase their volume.

By incorporating these recommendations, CC was able to participate in a police interview and indicated to officers that their stress and anxiety responses had not been triggered.

Public Advocate and Children and Young People Commissioner

Highlights



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 (C&YP) to ensure their voices are heard on issues that affect them
- improving services for all C&YP.

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 2022–23, the PACYPC continued to lead the Commission's advocacy in respect of raising the minimum age of criminal responsibility. The PACYPC was very pleased to see the ACT Government advance a position in support of raising the minimum age at first to 12 years of age, and within two years to 14 years of age.

As part of her advocacy, the PACYPC has contributed to the development of numerous submissions made by the Commission, and worked with both government and non-government agencies to inform the development of a more appropriate service response that seeks to address the vulnerabilities of children who currently come into contact with the youth justice system.

External merits review of child protection decisions

Over the course of 2022–23, the PACYPC continued to use multiple avenues to ensure a sustained focus on creating a mechanism to enable external review of child protection decision-making.

On 16 September 2022, the PACYPC and Community Services Directorate co-facilitated the third of a series of roundtables (the first two having been in 2020–21) at which the consultant consortium led by Monash University presented the findings of their consultation and research to key stakeholders.

The Commission had previously met with the consultant consortium on 22 August 2022 and, following the roundtable, the Commission provided a further submission to the consortium articulating the importance of the HR Act in guiding both the design and implementation of an external merits review model.

As PACYPC, I have been pleased to note the inclusion of external merits review in the *Next Steps for Our Kids* strategy, and a commitment to pursuing the same (through the reform of the *Children and Young People Act 2008*) having been made in the Legislative Assembly's 2022 Estimates Committee processes.¹

Eliminating the Physical Punishment of Australian Children

In late 2022, the PACYPC commenced her engagement with a national campaign to end the physical punishment of Australian children. While still in its relatively early stages, the campaign already has membership from all Australian states and territories. In support of this much-needed reform, the PACYPC also hosted the first meeting of ACT representatives who are supporting the campaign and will continue to work with ACT representatives into the next reporting period to explore avenues through which to further this progress on this issue.

Children and young people's perspectives on wellbeing

Children's Week is celebrated in October each year, with a new theme based on an article from the Convention on the Rights of the Child. In 2022, the theme was Article 27:

All children have the right to a standard of living that supports their wellbeing and healthy development.

As part of the celebrations, the CYPC visited several schools around Canberra to hear from C&YP about what wellbeing looks like for them. The key question was what they need from adults to ensure they develop their wellbeing. C&YP identified physical and mental health, social connections, the importance of nature and pets, the need for rest and relaxation, and so much more.

Each child and young person was invited to reflect on their wellbeing and write what they need on a cardboard leaf, this was then attached to the outline of a tree. Fondly nicknamed the Wellbeing Tree, this travelled to each school and grew as leaves were attached.

By the end of Children's Week, the CYPC and her team had heard from over 300 students. Their thoughts were reflected in a publication titled *Listening to children and accepting how they feel: What children and young people say about Article 27 of the Convention on the Rights of the Child*. This publication was presented to Ms Rachel Stephen-Smith MLA, Minister for Families and Community Services. A small group of children from the schools involved in the consultation also attended and were able to speak to the Minister about wellbeing. At the presentation, the Wellbeing Tree and a real tree were displayed as a powerful reminder to listen to C&YP before drawing conclusions about their experiences. This message is a key focus for the CYPC in her work.

'Listening to children and accepting how they feel instead of making your own decision about how they feel.'



Children and Young People Commissioner, Jodie Griffiths-Cook (second from left) with Minister Rachel Stephen-Smith (far right) and staff and students involved in the consultation.

¹ 111-QON-Answer-CSD-External-Merits-Review-Kikkert.pdf (act.gov.au)

Children and young people's experiences of racism

The CYPC's consultation on racism was completed in 2022 and the report launched in early 2023. Partnering with Curiyo and Multicultural Hub, the CYPC heard from 2,456 C&YP:

- 141 students participated in face-to-face sessions at the Commission, their school or community group.
- 185 students provided handwritten messages during CareersXpo.
- 312 C&YP responded to an online survey.
- 1,818 voted in a quick poll at CareersXpo.

'You can't protect yourself from racist people. They're everywhere. Teachers, friends, partners, friends' parents and much more.'

Of those C&YP who responded to the survey, 44 per cent had experienced racism themselves and 83 per cent had witnessed it. C&YP were very clear that it happens regularly throughout Canberra and affects their daily lives.

They were also clear that adults are not responding effectively and need to do more to prevent and respond to racism. The CYPC is committed to amplifying the voices of the C&YP who participated in the consultation and, to this end, is now working with key stakeholders to raise the issue of racism more broadly in the community and with decision-makers.

"Racism isn't good it makes me mad it really stabs me to know that adults GROWN ADULTS are racist even though they are smarter than children this stabs me because kids learn from this and it affects theyre future and ruins it."

Residential aged care—Wellbeing Clinic pilot

Older persons in residential aged care facilities (RACFs) in the ACT continue to experience inequitable access to appropriate and inclusive mental health and wellbeing specialist services. Under the Reinvisioning Older Persons Mental Health and Wellbeing Strategy (2022–26), the PACYPC undertook a cross-jurisdictional examination of evidence-based programs. Subsequently, inspired by an initiative developed by Swinburne University, the PACYPC, in partnership with the Australian Catholic University and an aged care facility, piloted a Wellbeing Clinic for Older Adults across 2021–22 and 2022–23.

The pilot was finalised in late 2022, and the findings were communicated to Dr Elizabeth Moore, Office for Mental Health and Wellbeing, on 6 January 2023. The key findings below supported the literature and evidence in other jurisdictions:

- RACFs hold insufficient expertise or resources to prioritise the mental health of older persons, and
- RACF's capacity to provide mental health services is impacted by systemic workforce issues such as high turnover, low morale and under-skilled staff.

To support improved outcomes for older persons in RACFs, the PACYPC proposed that the ACT Government should consider investing in a funding mechanism that prioritises:

- Services where access is proportionate to the needs of a growing ageing population with increasing complexities, comorbidities and diversity.
- Training for RACF staff in identifying and assessing older person's mental health including those from diverse backgrounds and/or living with dementia.
- Promotion of positive ageing to counter discriminatory and ageist cultures within RACFs in relation to depression and quality of life.
- Reducing barriers to essential services by building a skilled workforce and investing in backfilling staff to enable access to training, paying accredited trainers and recognising training as career progression rather than mandated professional development.
- Facilitating university partnerships to build learning cultures and expand clinical placement opportunities.

The PACYPC will continue to monitor any actions proposed to be taken by the ACT Government in response to the findings of the Wellbeing Clinic Pilot.

Boards and committees

In 2022–23, 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
- Alexander Maconochie Centre (AMC) Oversight Agencies Group
- Australia and New Zealand Children's Commissioners and Guardians (ANZCCG)
- Australian Guardianship and Administration Council
- Bimberi Youth Justice Centre (Bimberi) Oversight Group
- Child Abuse Royal Commission Working Group
- Children and Young People Expert Reference Group
- Children and Young People's Mental Health Community of Practice
- Children and Young People's Participation Reference Group
- Countering Violent Extremism Steering Committee
- Critical Sector Friends Working Group
- Disability Justice Strategy Reference Group

- Domestic and Family Violence Expert Reference Group
- End Physical Punishment of Australia's Children Network
- Frameworks for Supported Decision-Making Advisory Group
- Inter-Directorate Committee for Mental Health and Wellbeing
- Intersex Inter-Directorate Committee
- Living Safer Together Intervention Panel
- 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
- OPCAT (Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment) National Preventive Mechanism
- Official Visitor Board
- Parliamentary Group for Future Generations
- Restrictive Practice Oversight Steering Committee
- Strengthening Practice Committee.

Consultation and submissions

The PACYPC provided advice and comment on a range of issues in 2022–23, including by contributing to numerous Cabinet submissions and leading or contributing to the development of submissions jointly tendered by the Commission.

Public Advocate

Statutory public advocacy

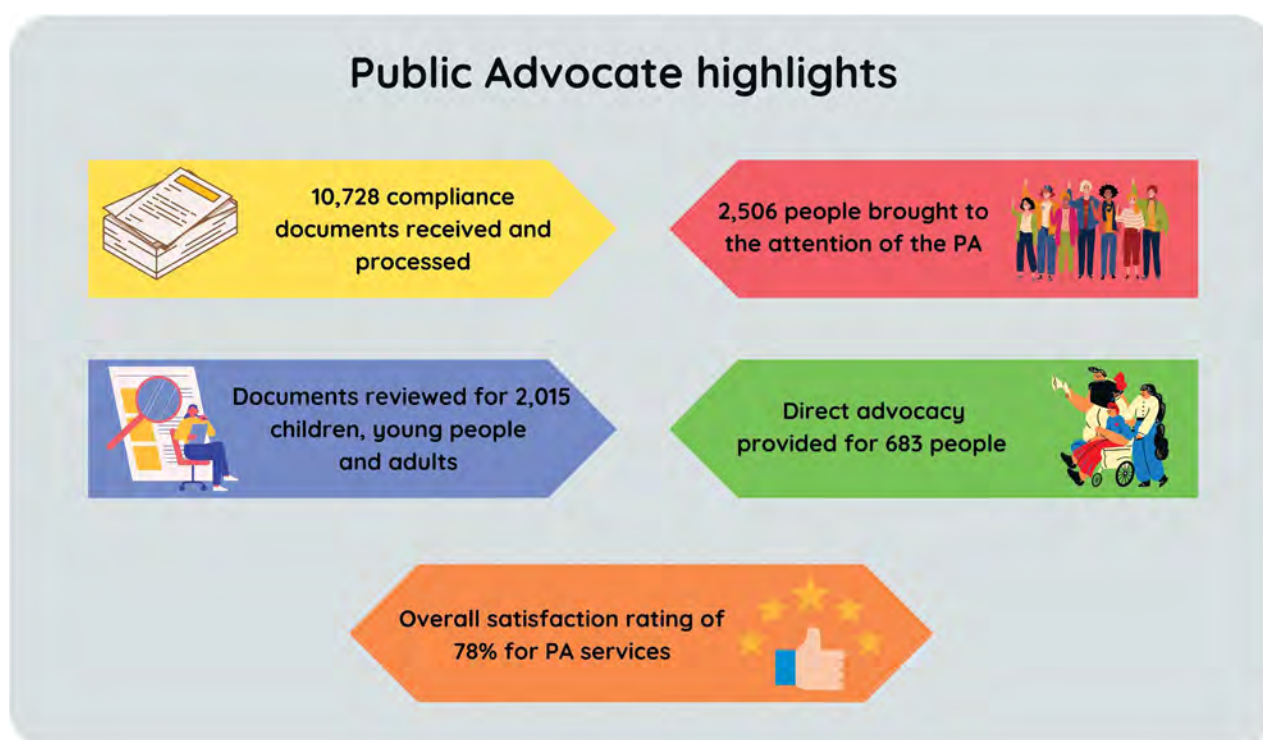
Statutory public advocacy seeks to ensure that services and systems do what they are supposed to do in the way they are supposed to do it, ideally in a timely and responsive manner. This involves the PA undertaking specific legislative functions to provide a person-centred, robust, preventive and comprehensive 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 2022–23 reporting period, 2,506 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 2022–23, direct advocacy was provided for 683 people (27 per cent of those brought to the attention of the PA), and documentation reviews were undertaken for 2,015 people (80 per cent). Performance in 2022–23 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 24: Comparison of PA key performance indicators over past five reporting periods

	2017–18	2018–19	2019–20	2020–21	2021–22	2022–23
Number of persons brought to PA's attention	2,136	2,078	2,254	2,537	2,338	2,506
Number provided with direct advocacy	645 (30%)	513 (25%)	493 (22%)	938 (37%)	600 (26%)	683 (27%)
Number for whom documents were reviewed	1,752 (82%)	1,330 (64%)	1,285 (57%)	1,622 (64%)	1,740 (74%)	2,015 (80%)

Of the 10,728 compliance documents received by the PA in 2022–23, 6,556 (61 per cent) related to mental health/forensic mental health consumers and 3,482 (33 per cent) related to C&YP (primarily those in care and/or involved with the youth justice system). Notably, this year, compliance documentation for protection matters increased to 620 records. This reflects a substantial increase from previous years, with 365 records having been received in 2021–22 and 458 records in 2020–21.

It should be noted, however, that when the 'somewhat satisfied' data was included, the overall satisfaction rating increased to 97 per cent. This result primarily reflects the views of service providers and community stakeholders with whom the PA engaged in advocating on behalf of clients. Pleasingly, however, four responses were received from people who directly accessed advocacy services although only one response was received from a significant person associated with a client.

In 2022–23, the PA held open a stakeholder satisfaction survey for the latter six months of the reporting period, achieving an overall satisfaction rating of 78 per cent.

“ Feedback from clients and community

“Incredibly caring, sensitive, supportive. Went above and beyond at all times when helping in an incredibly sensitive and potentially emotionally dangerous situation.”

“We work closely with PACYPC due to the nature of the vulnerabilities of children and young people who are admitted involuntarily into acute adult mental health wards, who also have significant disadvantages.”

“Thanks for being so responsive and supportive of our service users.”

“I appreciate having a representative from the PACYPC at our (ACT Together) fortnightly transition panels. The representative can offer great insight, support and guidance to our case management staff which in turn supports our young people on their journey towards independence.”

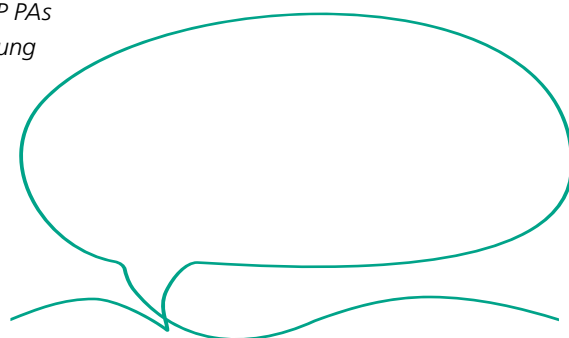
“We work very closely with CYP PAs who assist in advocating for young people and investigating issues beyond our remit.”

“We found the engagement with our students and community exceptional; it was both informative and motivating for our students.”

“Staff on the phone were very kind and compassionate.”

“Thank you for the work you are doing in this space.”

”



The PA is pleased to advise that, in response to the significant growth in demand for public advocacy, the office has successfully secured a modest increase in staff resources commencing from 2023–24.

Public Advocate—Children and young people

Delivering accessible services that empower and support people

Individual advocacy

Children and young people (C&YP) primarily 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).

In 2022–23, 1,034² C&YP were brought to the PA's attention, with the PA providing 1,577 occasions of direct advocacy for 206 C&YP (24 per cent). Further, of the 3,372 compliance documents received in this reporting period, 2,788 (83 per cent) were reviewed for C&YP.

Individual advocacy was provided in response to a range of issues impacting the rights, protection and participation of C&YP. The PA's advocacy in respect of such matters typically draws attention to the rights of C&YP so these considerations are appropriately upheld in decision-making. The types of matters that required PA advocacy included:

- Supporting young people to report allegations of misconduct to ACT Policing.
- Ensuring discharge meetings for young people involuntarily detained through the mental health system to enable continuity of care.
- Assisting young people detained at Bimberi with court proceedings.
- Upholding the right of C&YP to education and to access required supports.
- Advocating for C&YP's views to be considered in decision-making (including decisions about contact with family for those in out-of-home care, and lack of engagement from support staff for those in residential care).
- Improving safety and standards of care for C&YP in out-of-home care.
- Enabling continued case management support for young people who exited care.
- Supporting young people to attend their care team meetings.

Individual advocacy—Bimberi Youth Justice Centre

The PA maintains a regular presence at Bimberi to ensure appropriate regard for the human rights of young detainees. There were 101 recorded issues raised by young people in this reporting period.

Issues raised included:

- Human rights concerns (including contact with family, inadequate footwear, inadequate food).
- Allegations of misconduct against staff/feeling uncomfortable with certain staff.
- Young people's health needs not being adequately met.
- Young people not feeling safe in their unit.

The majority of issues (69 per cent) raised with Bimberi and Justice Health were adequately responded to following the PA raising the issue and/or through follow-up intervention.

Figure 10: Outcome of issues raised by young people at Bimberi (2022–23)

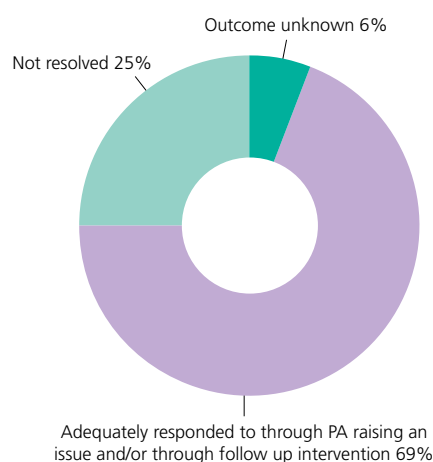


Table 25: Matters repeatedly raised by young people that remain unresolved (2022–23)

Ongoing unresolved matters	Times raised
Requests for additional phone calls to family	9
Requests for doctor-approved protein powder/supplements	5
Requests for alternative shirts (collarless) to exercise	5
Requests for food to be allowed in cabins	3
Length of time for overnight lock ins	3
TOTAL	25

² 176 of these C&YP are also included in figures for the complex needs/disability and/or mental health portfolios.

CASE STUDY

Health rights of a YP detained in custody

The PA was contacted by YP1 who believed their medical needs were not being adequately addressed while remanded in custody. The YP was involved with the child protection, youth justice and ACT health systems.

YP1 advised that, when they entered custody, their medication and administration frequency had been changed from their community treatment. They advised this had led to codes being called due to their medical needs not being adequately monitored and met. YP1 felt that their views and wishes were not being taken into consideration, and that their health was at risk.

The PA was concerned about YP1's health needs, and the lack of discussion with YP1 about the change of medication and reasons for this. Upon investigating further, it appeared the decision stemmed from resourcing challenges (ie being able to administer the dose daily as opposed to twice a day) and not because it was the best treatment option for YP1.

The PA reviewed CCTV footage in relation to a medical code before requesting a meeting with Bimberi and Justice Health to discuss the circumstances. The PA also attended care teams and reviewed incident logs and other documentation to ensure a holistic understanding of YP1 and their circumstances. The PA's advocacy resulted in YP1 having their pre-custody treatment reinstated, and YP1 reported feeling that their views had now been heard and respected.

After discussing options with YP1, the PA also assisted them to lodge a formal complaint with the Commission.

Court attendance

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 C&YP.

In 2022–23, the PA attended court on 25 occasions in relation to emergency action. The PA also attended youth justice court to observe matters being presented.

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 supported the PA's oversight in 2022–23:

- Aboriginal and Torres Strait Islander Children and Young People Advocate/PA meeting
- ACT Together Senior Managers/PA liaison meeting
- Bimberi Client Services meeting
- Bimberi Oversight Group
- Care team meetings for individual C&YP
- C&YP at High-Risk meeting
- Child and Youth Protection Services (CYPS)/PA liaison meeting
- CYPS/ACT Together/PA Annual Review Report liaison meeting
- CYPS Reportable Conduct Team/PA liaison meeting
- Murrumbidgee Education and Training Centre (METC)/PA meeting (at Bimberi)
- Office of Mental Health and Wellbeing—Systems Modelling for the Youth Mental Health Research Program
- Official Visitors (C&YP)/PA meeting
- Transition Panel
- Uniting/PA liaison meeting
- Youth Coalition/PA liaison meeting.

Oversight and monitoring of Bimberi Youth Justice Centre

Inspection of registers

The PA has a statutory responsibility to review and inspect the registers at Bimberi at least once every three months. The PA works closely with Bimberi to ensure their database captures the information needed by the PA to give effect to its oversight functions.

Use of force

In 2022–23, there were 194 occasions where force was used on young people. This is a 108 per cent increase from the 93 in 2021–22. Reasons for use of force are outlined below, which includes an elevated number of medical appointments and other compliant escorts.

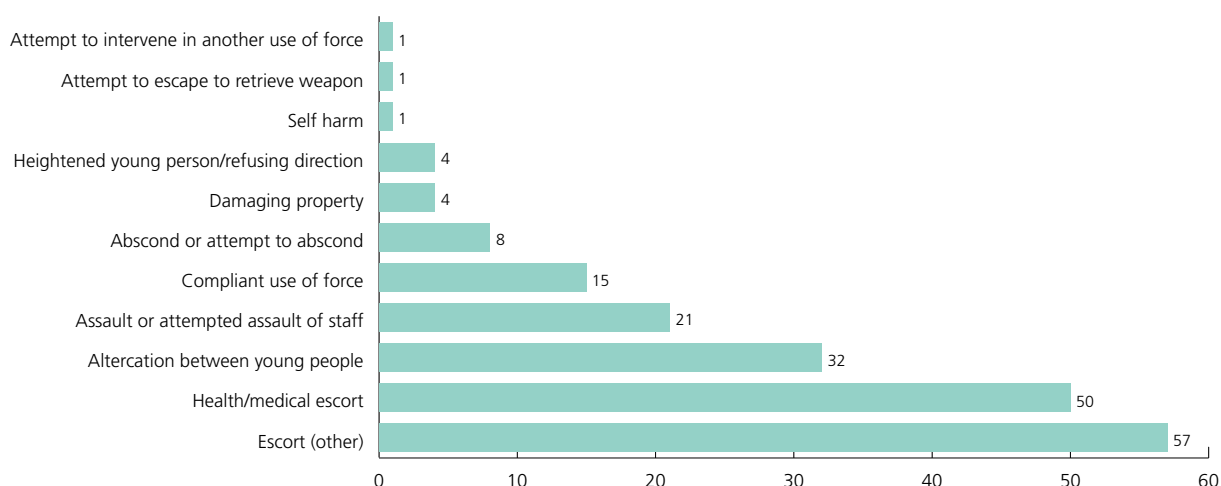
Operational lockdown

In 2022–23, there were 12 lockdowns for operational reasons, which is a 43 per cent decrease from 2021–22. Of this, nine were for staff breaks and three were for incident management. The PA will continue to monitor this throughout the next reporting period noting that only incident management events of over 90 minutes are recorded in this register.

Use of segregation

In 2022–23, there were 149 segregation directions issued. This reflects a 75 per cent increase on the 85 segregation directions issued in 2021–22. Of this, 92 per cent (137 instances) were for health isolation. It is expected admission changes will be made within the next reporting period and this number will reduce in line with current health advice in respect of COVID management practices.

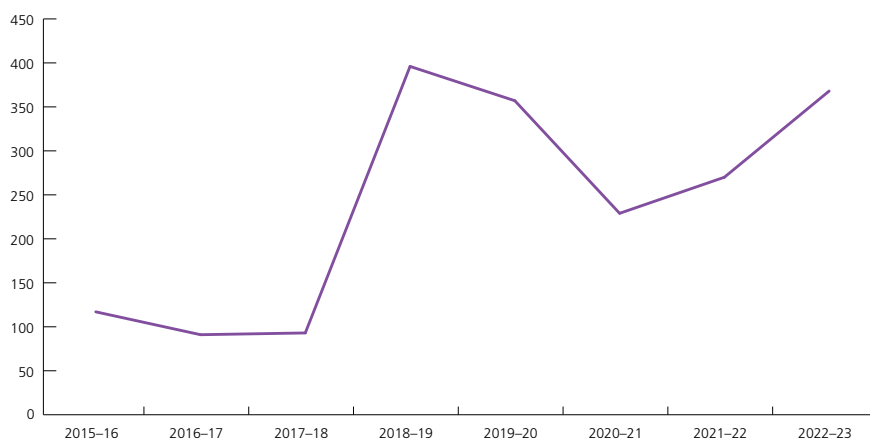
Figure 11: Reasons for use of force (2022–23)



Use of timeout

In 2022–23, there were 368 occasions of timeout used at Bimberi, a 36 per cent increase from the 270 in 2021–22. The lack of specific reasons for the use of timeout restricts the extent to which the PA can fully analyse and report on the practice. Notably, the PA is concerned by the increases in use of timeout over the past two reporting periods. These concerns have been raised with Bimberi management and the PA will continue to monitor this over the next reporting period with a view to ideally seeing a reduction in its use.

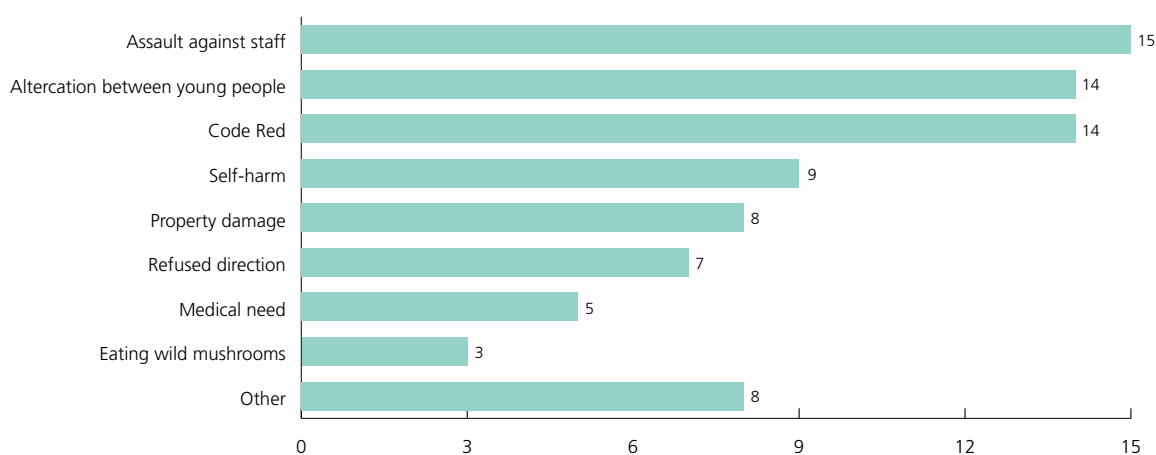
Figure 12: Trends in the use of timeout at Bimberi over the past eight reporting periods (2015–16 to 2022–23)



Critical incidents

There were 83 incidents reviewed in the incidents register.

Figure 13: Critical incidents (2022–23)



Strip searches

In 2022–23, ten strip searches were undertaken, with contraband found on one occasion. This is an increase of one from the nine strip searches conducted in 2021–22. Given the intrusive nature of strip searches, the PA will continue to advocate for less intrusive methods when there is reason to believe a prohibited item is being concealed.

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 76 C&YP, representing a 29 per cent decrease when compared to 107 in 2021–22. Of these 76 notifications, the PA attended court for 46 C&YP on 25 occasions.

Table 26: Reasons for emergency action (2018–19 to 2022–23)

Reasons for emergency action*	Numbers 2018–19	Numbers 2019–20	Numbers 2020–21	Numbers 2021–22	Numbers 2022–23
Substance abuse	22	45	46	31	22
Family violence	7	38	21	25	10
Neglect	27	36	35	81	45
Mental health	24	26	25	9	21
Physical abuse	33	5	16	23	23
Emotional abuse	3	4	4	38	33
Emergency action revoked	5	1	2	1	4
Sexual abuse	1	0	3	0	3
Other	20	0	5	0	8

* 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 2022–23, the PA received 48 notifications, 13 of these (27 per cent) were substantiated.

Table 27: Substantiated section 507 notifications to the PA (2018–19 to 2022–23)

Timeframe within which PA is notified	Total s 507 reports 2018–19	Substantiated 2018–19	Total s 507 reports 2019–20	Substantiated 2019–20	Total s 507 reports 2020–21	Substantiated 2020–21	Total s 507 reports 2021–22	Substantiated 2021–22	Total s 507 reports 2022–23	Substantiated 2022–23
<3 months	35	1	10	4	13	3	9	1	12	1
3–6 months	39	11	31	11	25	11	41	11	24	7
7–9 months	0	0	6	2	3	0	3	0	11	5
>10 months	0	0	0	0	4	0	0	0	1	0
Total	74	12 (16%)	47	17 (36%)	45	14 (31%)	53	12 (23%)	48	13 (27%)

Consistent with (though still significantly higher than) past reporting periods, the largest number of notifications in 2022–23 related to C&YP in kinship placements (83 per cent). The PA's previous systemic review into this issue suggested that these consistently high figures raise concerns about whether adequate attention is being given to the supports that kinship carers may require to adequately meet the trauma-related and other needs of the C&YP in their care. In the next reporting period, the PA will continue making enquiries to better understand the circumstances surrounding the high level of notifications of kinship carers.

Table 28: Section 507 notifications by placement type (2018–19 to 2022–23)

Care arrangement type	2018–19	2019–20	2020–21	2021–22	2022–23
Total number of s 507 notifications	74	47	45	53	48
Kinship care	61%	75%	66%	59%	83%
Foster care	26%	15%	26%	36%	2%
Residential care	12%	6%	6%	8%	13%
Other	1%	2%	0%	0%	2%

Please note: Percentages are rounded to the nearest whole number.

PA investigations (section 879 requests)

Under section 879 of the CYP Act, the PA may ask an ACT child welfare service to provide information, advice, guidance, assistance, documents, facilities, or services in relation to the physical or emotional welfare of C&YP. In 2022–23, the PA made 26 section 879 requests relating to 55 C&YP, and one systemic investigation in respect of C&YP with disability.

Table 29: Reason for the PA undertaking section 879 investigations (2022–23)

Key areas of concern*	Number	Percentage**
Family violence	17	25%
Neglect	17	25%
Concerns around service provision/support	5	7%
Family contact/preservation	5	7%
Unclear safety planning	5	7%
Sexual abuse	4	6%
Unstable accommodation/homelessness	4	6%
Alcohol and/or substance misuse concerns	3	5%
Emotional abuse	3	4%
Cultural support concerns	3	4%
Youth suicidality	1	2%
Physical abuse	1	2%
Total concerns raised	68	100%

* Please note: Multiple areas of concern may have been identified in a single s 879 request.

** Percentages are rounded to the nearest whole number.

In addition to formal s 879 requests, discussions between the PA and CYPs in May 2023 led to further information sharing outside of the formal process. Using the agreed process, a further 17 requests for information for 22 C&YP were issued between May and June 2023. These requests included seeking updates on information and requests to attend care teams in circumstances where there were concerns that did not meet the threshold for issuing formal section 879 correspondence. The PA appreciates the partnership with CYPs given that this new process has increased the timeliness of responses and action in respect of matters that the PA holds concerns about. These requests have not been included in the above table.

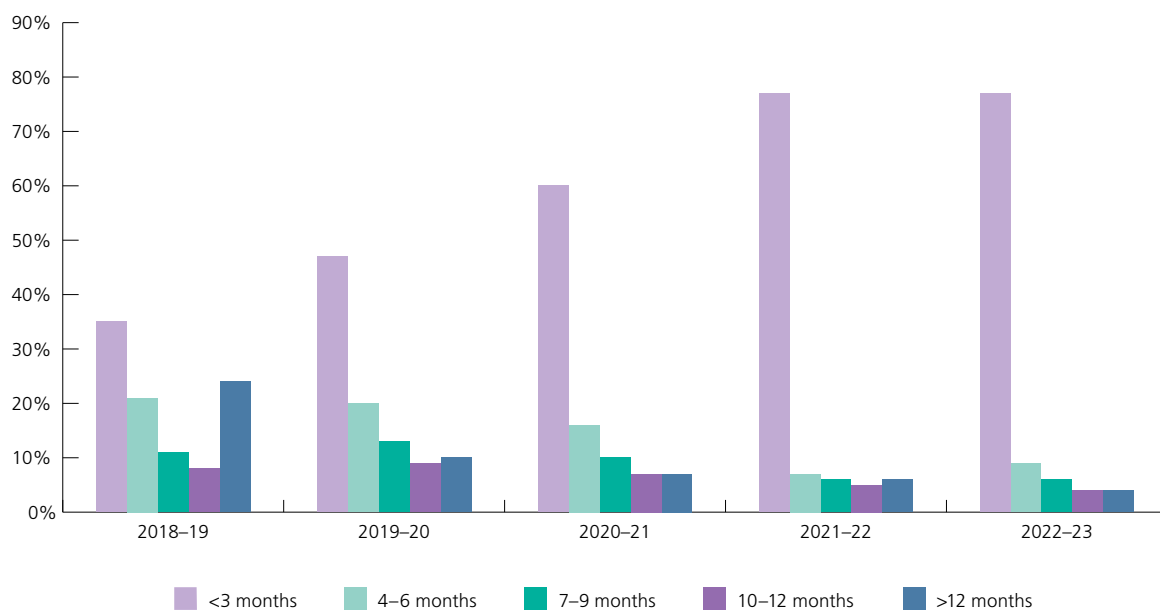
Annual Review Reports (section 497 reports)

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

ARR timeframes

During 2022–23, the PA received 723 ARR from CYPS and ACT Together. The timeframes for receipt of most of these reports has remained the same in this reporting period, with 77 per cent provided in under three months post completion.

Figure 14: Comparative analysis of ARR timeframes (2018–19 to 2022–23)



In addition to the ARR received, the PA was advised that there were 177 ARRs outstanding in the past reporting period. This constitutes a significant gap in the recorded history of C&YP in out-of-home care, therefore limiting the account of their life under the care of the Director-General.

Table 30: Number of outstanding reports by case management agency (2022–23)

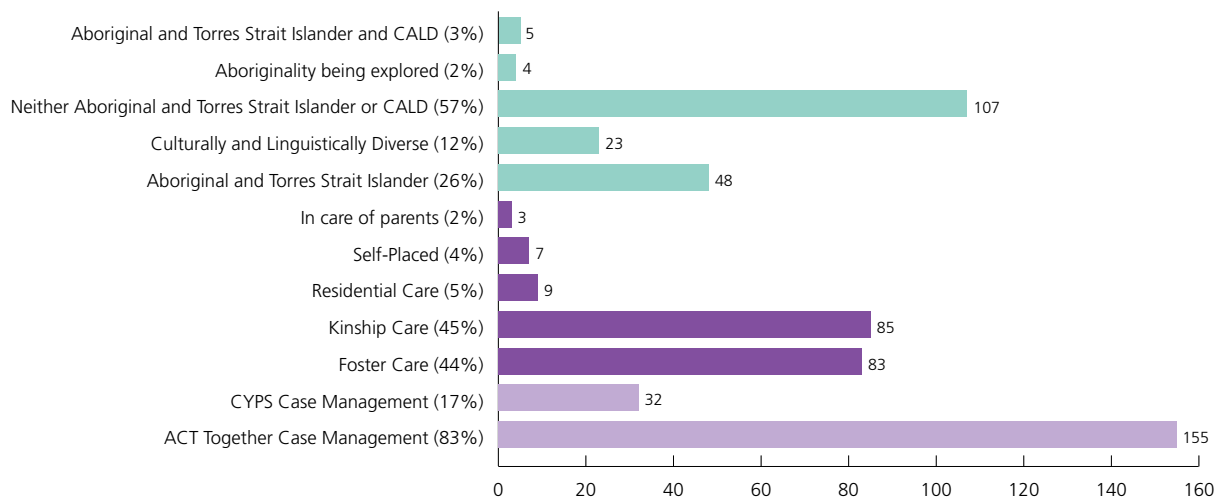
Agency	Number of outstanding reports
Child and Youth Protection Services	172
ACT Together	1
Mackillop Family Services	4
Total	177

ARR quality review framework

Demographics

The PA reviewed 187 of the 723 ARR (26 per cent) provided to the PA in 2022–23. The key demographics are indicated below including cultural background, placement type and case management provider for the C&YP in the sample.

Figure 15: Demographics of ARRs reviewed by PA (2022–23)



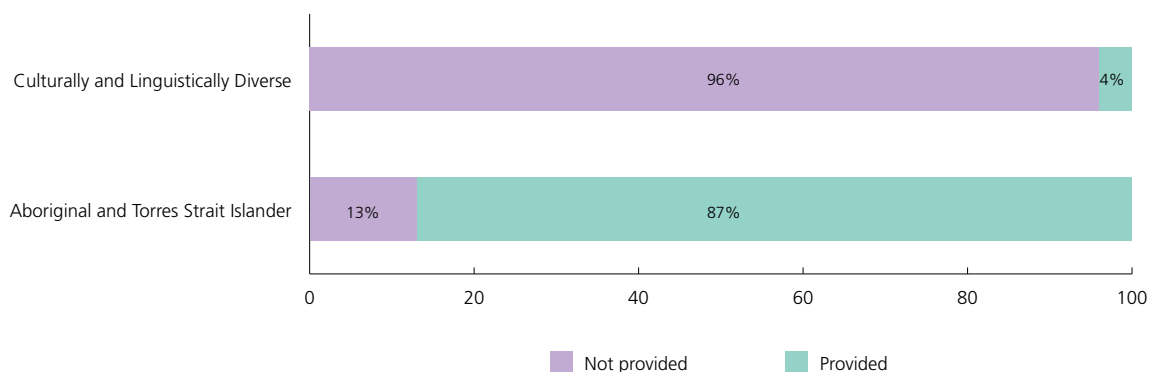
ARR review findings

In the 2022–23 reporting period, the PA focused on two key areas of oversight in relation to the participation rights of C&YP in out-of-home care: cultural planning; and consultation more broadly.

Cultural planning

Of the ARRs reviewed, cultural support plans were not provided for 87 per cent of individuals who were identified as being Culturally and Linguistically Diverse (CALD). It was evident from the reviews of corresponding Annual Reviews and Care Plans that efforts were being made to explore cultural heritage by connecting with birth family, visiting sites/places of cultural significance and learning through activities. There has been an improvement in the provision of plans for C&YP from Aboriginal and Torres Strait Islander backgrounds, with a four per cent increase from 2021–22. The PA will continue to liaise with CYPS and ACT Together to ensure that cultural plans are prioritised for all C&YP with diverse cultural heritage.

Figure 16: Number of cultural support plans provided to the PA (2022–23)

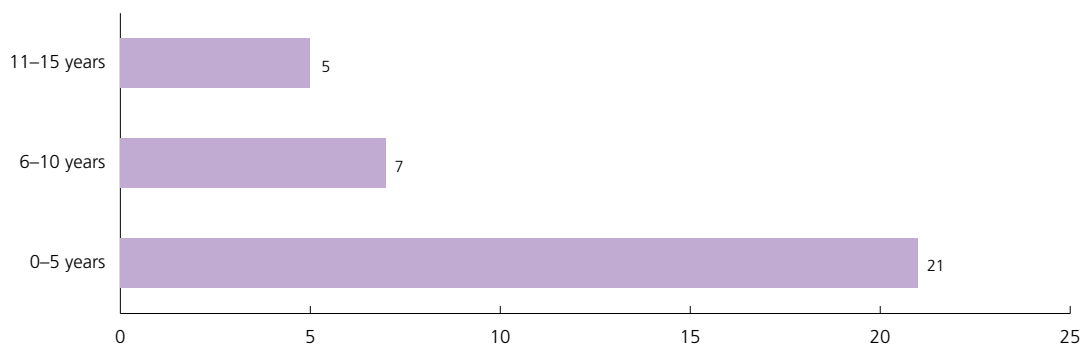


Participation

Of the 187 ARR reviewed, 82 per cent were informed by the direct views or wishes of the child or young person, obtained through conversation with the case manager, and 18 per cent were informed solely by relying on information provided by the carers.

Following on from the PA's 2021–22 findings, which indicated a need for improved participation methods for children of all ages, this theme continued in the current reporting period. Of the 33 individuals not directly consulted, 36 per cent were aged between 6 and 15 years of age.

Figure 17: Numbers of those C&YP not directly consulted in ARR process by age (2022–23)



While only nine per cent of ARRs mentioned the use of a participation tool such as Viewpoint, there was clear evidence that the views of C&YP were captured in most ARRs reviewed by the PA. This was detailed by case managers including direct quotes from C&YP or their views being reflected in the content itself.

Noting that participation is fundamental to the *Next Steps for Our Kids 2022–2030: ACT strategy for strengthening families and keeping children and young people safe*, the use of more inclusive participation methods that support individuals of all ages, including C&YP with disability, and the prioritisation of reasonable adjustments to support equitable participation will be an oversight focus in the next reporting period.

Review of child and youth mental health

In 2022–23, the PA has continued to review all mental health documentation for C&YP, with notifications having been received for young people aged 12 to 17 years. This includes all mental health documentation involving involuntary detention, restraint, seclusion, forcible giving of medication, applications for psychiatric assessments and mental health orders, and documents related to mental health treatment plans.

Figure 18: Number of mental health documents received for C&YP over the last two reporting periods compared to the number of C&YP these related to (2021–22 to 2022–23)

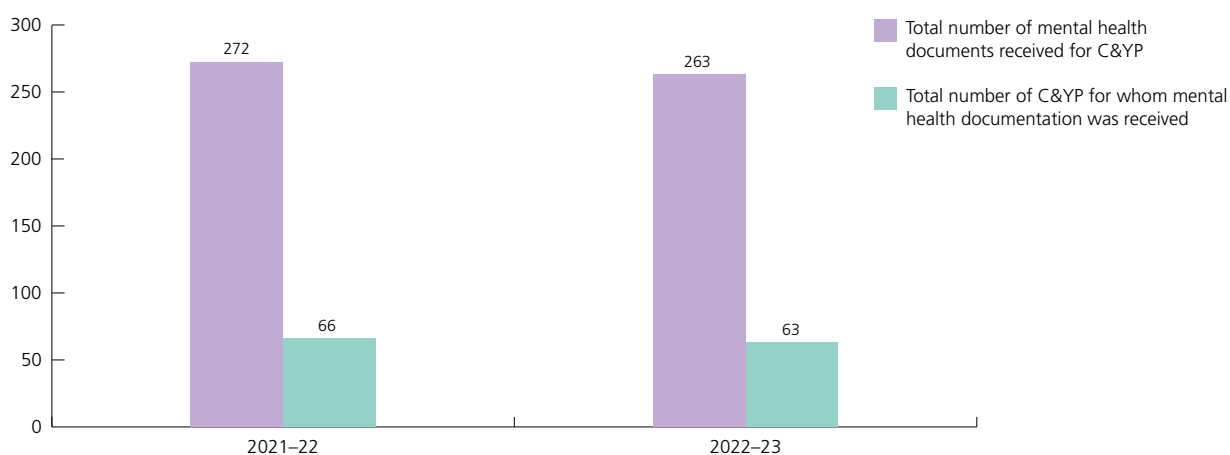
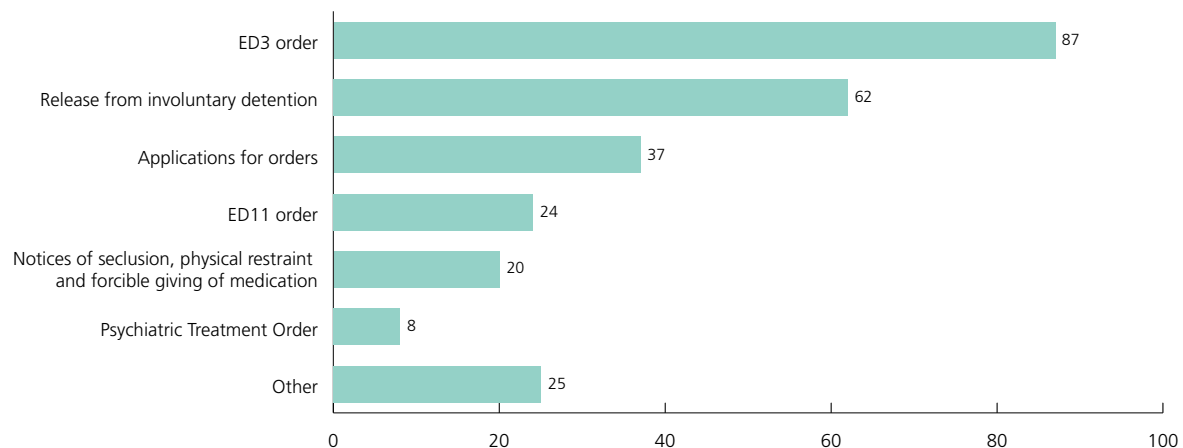


Figure 19: Types of mental health documents received for those aged between 12 to 17 years (2022–23)

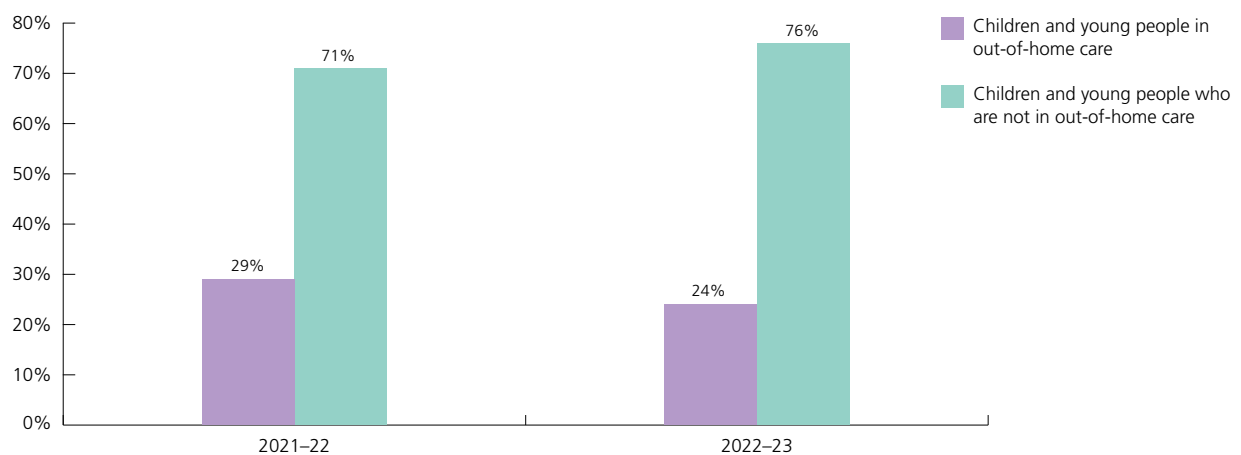


In reviewing mental health documentation for C&YP, the PA sought to understand the service gaps and issues that are being experienced for those with moderate to severe mental health concerns, with the two key findings summarised below.

C&YP in out-of-home care are disproportionately overrepresented in the involuntary mental health system

In 2022–23, nearly a quarter (24 per cent) of mental health documents received were for C&YP in out-of-home care. This compares to the previous reporting period, where nearly a third (29 per cent) of all mental health documents received were for C&YP in out-of-home care.

Figure 20: C&YP care arrangements, for those who have been involuntarily detained or treated under the ACT Mental Health Act 2015 (2021–22 to 2022–23)



A small number of C&YP make up for the bulk of mental health documentation for C&YP received by the PA

Of the 63 C&YP for whom mental health documentation was received in this reporting period, 13 of those C&YP made up for more than half (53 per cent) of all mental health documentation received by the PA.

For the C&YP for whom the PA received high numbers of mental health documents, most had involvement with another government system, including either CYPs, the justice system or both.

The PA will continue to monitor mental health documentation for C&YP and will produce a report detailing the findings.

Public Advocate—Mental health and forensic mental health

Delivering accessible services that empower and support people

Individual advocacy

There are multiple pathways through which people with mental health concerns are brought to the attention of the PA. Individuals, family members, carers or health professionals may contact the PA directly or request assistance during a visit by the PA to a mental health inpatient unit. Overall, most people come to the attention of the PA through the review of compliance documentation provided to the PA under the requirements of the *ACT Mental Health Act 2015* (MH Act).

There is ongoing discussion regarding best practice and use of terminology regarding people living with mental health concerns. The PA has continued to use the term 'consumer' for this annual report, in line with ACT organisations including the Mental Health Community Coalition ACT and the ACT Mental Health Consumer Network. However, the PA has received advice that alternative wording may be preferable and will consult further on this in the next reporting period.

In 2022–23, the PA provided 319 people with 1,666 occasions of direct advocacy across a range of matters.

The PA intervened when concerns were raised regarding whether involuntary mental health treatment appeared to disproportionately limit the rights of consumers. The PA undertook advocacy, including by providing information, liaising with service providers and making representations to the ACT Civil and Administrative Tribunal (ACAT) in mental health matters.

CASE STUDY

Championing least restrictive treatment

MH1 came to the attention of the PA during the review of a Psychiatric Treatment Order (PTO) application, concerning whether this continued to be the least restrictive way to provide treatment. MH1 had been subject to consecutive PTO orders for several years. The PA identified that there was evidence of significant sustained improvement in MH1's mental health and an increase in support.

The PA made a written submission to the ACAT highlighting concerns about the application and whether it met the principle of least restrictive treatment. The ACAT determined that more information was required to enable the application to be considered and adjourned the matter.

Prior to the subsequent hearing, the PA received notification that an application for the revocation of the order had been lodged with the ACAT by the treating psychiatrist stating that as MH1 was voluntarily undertaking mental health treatment, a PTO was no longer the least restrictive way of providing treatment. The ACAT revoked the PTO.

CASE STUDY

Promoting the rights of persons subject to involuntary admission

MH2 phoned the PA in distress after being involuntarily admitted to a mental health unit, saying that they were being held illegally. The PA reviewed mental health documents that had been provided on behalf of MH2, explained the basis for their admission to the unit, the parameters of the detention and their rights. The PA told MH2 that they would continue to monitor information provided about their treatment. The PA was also able to provide MH2 with information about their right to have a review of the emergency detention order. MH2 decided they wished to proceed with a review, and with their consent, the PA passed on their request for a review and for legal representation.

CASE STUDY

Nudging the system—community example

The PA received a call from MH3 who was subject to a mental health order and living in the community. MH3 had concerns about the medication they had been prescribed. The PA discussed the options for addressing their concerns with their treating team, including by advocating for themselves or with support from others. The PA also provided information to MH3 about their right to request a review of the mental health order. At the end of the phone call, MH3 felt empowered to speak directly to the treating team about their concerns.

CASE STUDY

Proportionate restriction

Concerns were raised with the PA that MH4 was being considered for transfer to a more restrictive mental health unit, and that this was possibly due to operational reasons rather than their mental health treatment needs. This was of significant concern to the PA given that under the MH Act, treatment, care and support needs to be provided in a way that is least restrictive and least intrusive for a person.

The PA reviewed recent mental health documentation regarding MH4's mental health and made enquiries with the mental health team about MH4's current mental health state and if they had any current concerns regarding MH4 being at risk of harm to themselves or others. The PA also spoke to the consumer about the proposed transfer. MH4's understanding of the situation was that there were not enough beds in their current facility, and that this was why a transfer was being considered.

Based on the information gathered, the PA was concerned about the apparent lack of transparency in the information shared with MH4 and continued to have concerns that the transfer of MH4 did not appear to be required given their current mental health. Subsequently the PA raised these concerns with senior management and ultimately the person was placed in a less restrictive environment more appropriate to their needs, upholding their dignity and enabling them to continue their recovery journey.

Individual advocacy undertaken for consumers with significant needs

A proportion of persons brought to the PA's attention require a significant level of advocacy so that services respond appropriately and effectively to their needs.

A review of the 25 consumers for whom the PA undertook the most intensive advocacy and for whom a significant number of mental health documents were received in 2022–23 provided the following information:

- 524 acts of advocacy were undertaken for these consumers—an average of 21 advocacy actions per consumer (eg phone calls, visits and meetings with consumers; attendance at ACAT hearings; and liaison with carers, mental health professionals and other stakeholders).
- 253 mental health documents were received in respect of these consumers—an average of nine documents per consumer.
- The average age of these consumers was 38 years.
- The date of initial involuntary treatment in the ACT for these consumers ranged from 1999 to 2023, with a median average involvement of three years.
- These consumers also experience a range of additional vulnerabilities including complex trauma, post-traumatic stress disorder, family violence and co-occurring disabilities (eg physical conditions, cognitive/ intellectual disability, neurodiversity and acquired brain injuries).

Individual advocacy at Dhulwa, Gawanggal and the Alexander Maconochie Centre

During this reporting period, the PA continued to have significant concerns regarding some referrals for individuals proposed to be admitted to Dhulwa (arguably the most restrictive mental health unit in the ACT). The PA undertook extensive advocacy throughout 2022–23 on behalf of some consumers where referrals did not appear to be required for mental health reasons or align with a least restrictive approach to treatment, care and support.

The PA also continued to monitor concerns expressed by consumers at Dhulwa and Gawanggal regarding leave. Decisions made by the leave panel have limited transparency and the process for applying for leave is complex, thereby limiting the making of timely decisions. The PA intervened on behalf of consumers when it appeared that the leave process was not promoting recovery.

The PA continued to monitor the mental health services provided to consumers detained at the AMC by prioritising attendance at mental health hearings to oversee their mental health treatment.

Representation at ACAT mental health hearings

In 2022–23, the PA attended 195 mental health hearings for 155 individuals. Priority was given to attendance at hearings when one or more of the following factors were identified during the review of applications:

- consumers who had not previously been subject to involuntary mental health treatment.
- consumers whose situation may limit their ability to participate, such as their age or language and cultural barriers.
- consumers with involvement in the justice system.
- concerns regarding procedural fairness.
- concerns regarding the limited information or evidence provided to support applications.
- concerns that applications contained similar or duplicated information from earlier applications to the extent that the PA was unable to determine the currency of the information provided to support the application.

The PA prepared several written submissions to ACAT for matters where these concerns were identified and made further submissions in matters in which it was considered that a shorter order would help facilitate greater oversight of mental health treatment and/or where applications did not appear to align with the requirements of the MH Act for least restrictive and least intrusive treatment.

CASE STUDY

Bolstering family system advocacy

MH5 contacted the PA raising concerns about the quality of information their family member, MH6, was receiving regarding their treatment and care. Their perspective was that this had contributed to the treating team taking the unsubstantiated position that the family member was refusing treatment. The treating team had applied for a PTO, but the family member felt that the information in the report was not accurate.

The PA was able to support MH5 to support MH6 by informing them about ACAT proceedings, and options to make submissions prior to the hearing to provide evidence and information.

The PA reviewed the PTO application, made a written submission to the ACAT and attended the hearing to further interrogate the evidence provided by the treating team.

The ACAT dismissed the application, enabling the person to continue treatment voluntarily with the treating team of their choice.

Providing effective oversight

The PA oversees government mental health services provided to individuals residing in the community, at inpatient mental health facilities including Dhulwa and Gawangal, and at the AMC. The PA uses a range of mechanisms to perform its functions, including contact with consumers, representation at oversight meetings and forums, visits to inpatient units and the review of 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:

- ACT Human Rights Commission AMC Oversight Meeting
- Adult Mental Health Unit (AMHU) Consumer Meetings at the Canberra Hospital
- AMC Oversight Agencies Collaborative Forum
- AMHU Social Workers/PA liaison meetings
- Custodial Mental Health/PA liaison meetings
- Mental Health, Justice Health and Alcohol and Drug Services Restraint, Seclusion and Restrictive Practices Review Committee
- Official Visitors (Mental Health)/PA liaison meetings
- Safewards Update Forums

Contribution to systemic reform

The PA strives to ensure that recommendations made to government agencies on legislation, policies and practices contribute to improvements in the accessibility, responsiveness and quality of supports and services available for people experiencing vulnerability.

In 2022–23, the PA contributed to the following mental health strategic projects with the Office of Mental Health and Wellbeing and ACT Health:

- ACT Youth Modelling Workshops for the Right Care, First Time Where You Live Program
- Mental Health and Housing Strategic Analysis Project

The PA provided feedback to Canberra Health Services (CHS) and the Chief Psychiatrist on the following draft legislative amendments and operational procedures:

- Mental Health Amendment Bill 2023
- CHS Draft Operational Procedure—Care of Persons Subject to a Conditional Release Order
- CHS Draft Model of Care for the Adolescent Mental Health Unit and the Adolescent Day Service
- CHS Draft Child and Adolescent Mental Health Service, Adolescent Unit Model of Care

Advice from the PA placed a stronger emphasis on human rights and the obligations of public authorities to uphold those human rights, supported the provision of trauma-informed care and promoted consistency with the objectives and legislative requirements of the MH Act.

Contribution to the Dhulwa Inquiry

The PA provided a submission and met with the Board of Inquiry into the Legislative, Workplace Governance and Clinical Frameworks at the Dhulwa Mental Health Unit.

The PA remains committed to monitoring the mental health treatment, care and support provided to people admitted involuntarily to mental health inpatient units across the ACT.

Visits to mental health inpatient units and provision of information sessions for staff

Throughout 2022–23, the PA undertook regular site visits to the Adult Mental Health Unit (AMHU) at the Canberra Hospital, and to Dhulwa and Gawanggal. These visits included meeting with consumers and staff and participation at consumer meetings.

Issues that were raised with the PA by consumers during site visits included:

- lack of information, including limited information on admission to AMHU
- limited information regarding the rights of consumers.
- access to phones at AMHU, including limits placed on the use of personal mobiles by staff
- leave arrangements
- lack of information or progress towards discharge from Dhulwa and Gawanggal
- quality of care provided by staff including perceived negative attitudes, lack of availability and lack of responsiveness to requests.

It is pleasing to note that in the final quarter of this reporting period, significantly fewer issues relating to the quality of care provided by staff at Dhulwa were brought to the attention of the PA.

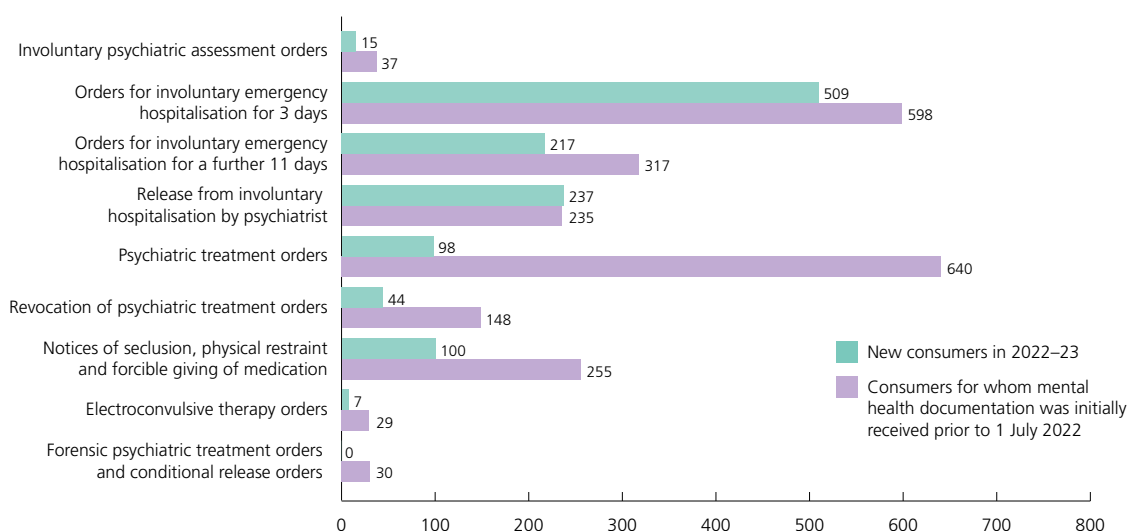
In this reporting period, the PA provided three information sessions for staff of Dhulwa, Gawanggal and AMHU. These sessions provided an opportunity to highlight the oversight functions of the PA, the ways the PA can support and assist staff in their work, and their obligations to consider human rights as public authorities under the *Human Rights Act 2004* (ACT). Section 100A of the *Human Rights Commission Act 2005* (ACT) was also discussed in respect of the ability of people to raise concerns with the PA without this being a breach of confidence, professional etiquette or rules of professional conduct, providing staff with a further avenue they can use to help safeguard the rights of the people with whom they work.

Review of mental health documentation

The MH Act requires the PA to be provided with information concerning actions taken under the MH Act, which represent a limitation of a person's rights to make decisions regarding their own mental health treatment. The PA reviews mental health documentation to consider whether the actions taken are reasonable and proportionate.

In 2022–23, the PA was provided with 6,556 mental health documents on behalf of 1,238 consumers. Of these consumers, 456 had not previously been involved with the involuntary mental health system in the ACT prior to 2022–23. For this cohort of 'new' consumers, a total of 1,855 documents were provided to the PA, with an average of four mental health documents provided on behalf of each consumer.

Figure 21: Mental health orders, revocations and notices of restrictive practices provided to the PA by consumer cohort (2022–23)



Further analysis was undertaken of the mental health documentation provided to the PA in 2022–23 on behalf of consumers first brought to the attention of the PA in the previous two reporting periods. In 2021–22, 480 consumers were first involved in the ACT involuntary mental health system, while in 2020–21, 570 consumers were first involved in the ACT involuntary mental health system. The PA was pleased to note that for both groups of consumers there have been significant decreases in the numbers still involved in the involuntary mental health system. In this reporting period, the PA received documentation for only 89 consumers from the 2021–22 cohort and only 56 of the consumers in the 2020–21 cohort.

Review of restrictive practices notifications

The PA monitors the use of restrictive practices with a view to ensuring as far as possible that the use of restrictive practices:

- represents a proportionate response to each situation.
- is not for punitive purposes.
- promotes recovery.
- limits possible further traumatisation of consumers.
- minimises the potential for breaches of human rights.

The PA received information regarding the use of restrictive practices from the Canberra Hospital, Calvary Public Hospital and Dhulwa. A review of information showed that 143 consumers were subject to restrictive practices in this reporting period. The PA received information regarding 352 occurrences of physical restraint, 230 occurrences of forcible giving of medication and 28 occurrences of seclusion.

The notices of restrictive practices received by the PA were analysed to determine the extent to which these 143 consumers were subjected to these practices throughout this reporting period. The total number of restrictive practices experienced by an individual may have occurred during one admission to hospital or mental health unit or over multiple admissions.

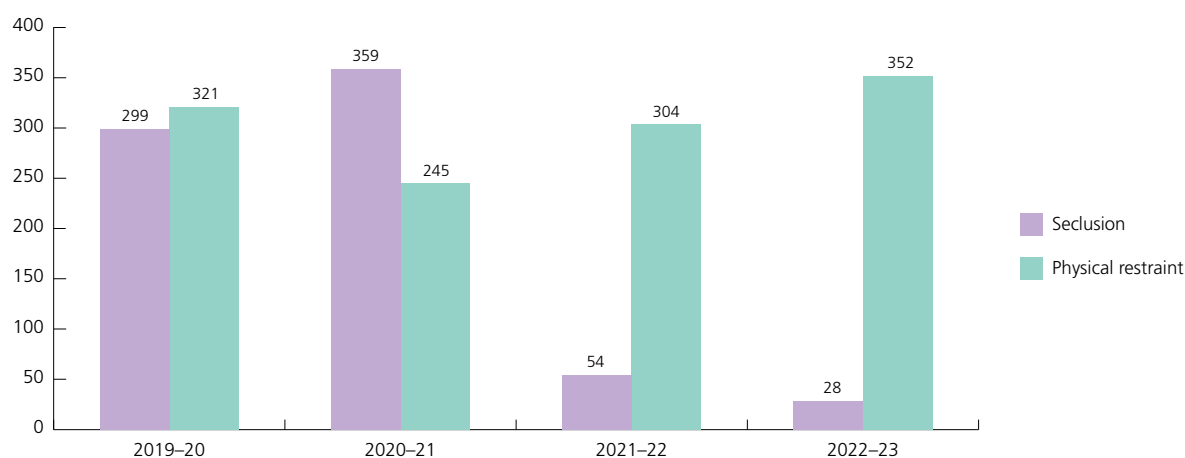
Table 31: Persons subjected to restrictive practices by total number of restrictive practices (2022–23)

Number of restrictive practices	Number of individuals	Percentage
1	28	20%
2	45	32%
3–4	45	32%
5–7	12	8%
8 or more	13	9%

Please note: Percentages are rounded to the nearest whole number.

A comparison of the number of occurrences of seclusion and physical restraint the PA was notified about over the last four reporting periods was undertaken, showing an increase in the use of physical restraint for this reporting period and a continued significant reduction in the use of seclusion.

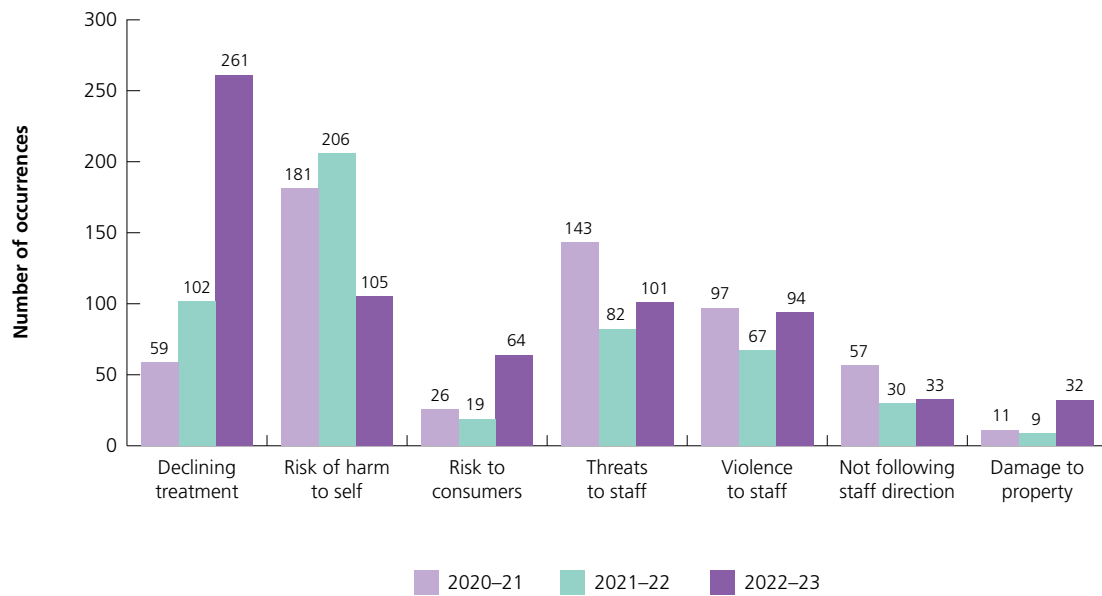
Figure 22: Number of occurrences of seclusion and physical restraint in 2019–23



Reasons for use of restrictive practices

As decisions to apply restrictive practices must be reasonable, justifiable and proportionate, the restrictive practice notices provided to the PA were reviewed with respect to the rationale provided. It was noted with concern that nine per cent (33 of the 355 notices received) specified no reason for the use of the restrictive practice(s), thereby limiting oversight capacity.

Figure 23: Reasons for use of restrictive practices (2020–23)



Public Advocate—Complex needs/ disability, including protection matters

Delivering accessible services that empower and support people

The information presented for the complex needs/disability portfolio is in addition to activities that are captured within the data of the other portfolio areas. By way of example, the complex needs/disability portfolio has responsibility for advocacy and oversight in respect of older persons; however, data in respect of activities relating to mental health consumers over the age of 60 years is reflected in the mental health/forensic mental health section.

Individual advocacy for people with complex needs/disability

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

In 2022–23, the PA received 60 new enquiries related to people with complex needs/disability. 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 referrals.

In response to new and pre-existing matters, 1,461 individual occasions of direct advocacy were undertaken for 213 people, including attending court or tribunal hearings, meeting with clients and their supports, issuing correspondence and conducting investigations. The average enquiry remained open for 175 days. This data reflects the complexity of each matter and the intensity of the advocacy response required.

In this reporting period, advocacy was provided regarding a range of issues, which included:

- reduced access to education spaces for C&YP with disabilities due to limited implementation of reasonable adjustments and staff training.
- 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.
- barriers to hospital discharge due to lack of suitable accommodation, appropriate community service access or National Disability Insurance Scheme (NDIS) service provision.

CASE STUDY

Coordinating a multi-agency response

A community lawyer raised concerns regarding possible abuse of CND1 by the person's family member.

The community lawyer initially sought the assistance of the PA in relation to acting as litigation guardian for CND1. Given the concerns raised by the lawyer, the PA referred the matter to the Vulnerable Person (VP) complaints jurisdiction in the Commission and worked alongside them to ensure the safety of CND1.

The PA worked with CND1's NDIS supports to arrange a meeting with CND1 and their lawyer. The PA provided information to CND1 on their rights and options, including individual advocacy, safety planning and the process of a VP complaint. CND1 detailed the abuse they had experienced and how they had kept and continued to keep themselves safe. The person indicated an interest in avenues to better assist them in making decisions with support. The PA provided warm referrals to appropriate agencies.

The PA continued to provide support until a support team, comprising several government and non-government agencies, was established for CND1. Given the supports that were able to be provided to CND1, a litigation guardian was not required.

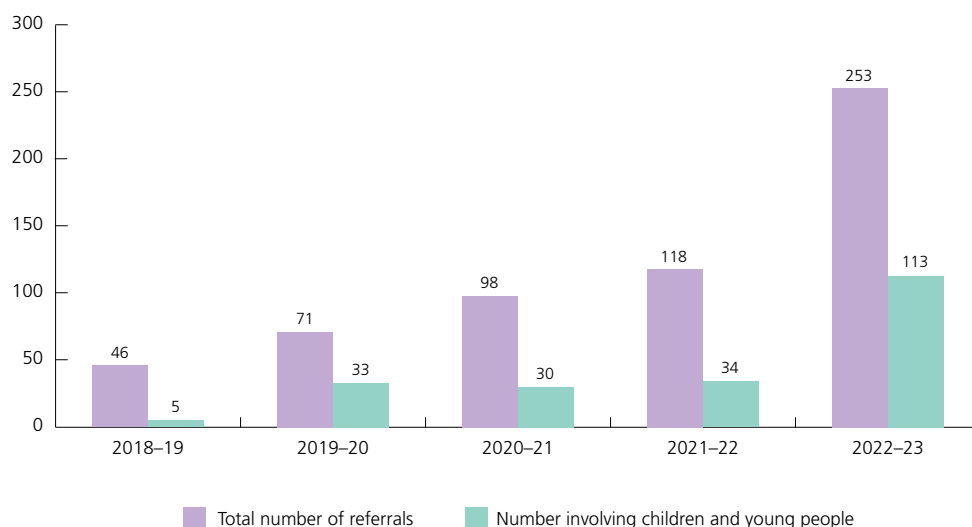
Individual advocacy for protection matters

Under the *Family Violence Act 2016* (ACT) and *Personal Violence Act 2016* (ACT), the ACT Magistrates Court 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 can:

- facilitate participation and inclusion in decision-making processes.
- ensure access to legal representation.
- support court attendance.
- advocate for reasonable adjustments.
- make referrals as required.

In 2022–23, there was a significant increase in referrals made by the Magistrates Court to the PA. In the current reporting period, 253 referrals were received, with 113 (45 per cent) of these referrals involving C&YP. Of the matters referred, 63 per cent related to personal violence, 31 per cent to domestic and family violence and six per cent to workplace violence. Respondents made up 86 per cent of referrals, and applicants made up the remaining 14 per cent.

Figure 24: Number of protection matter referrals to the PA in the last five reporting periods (2018–19 to 2022–23)



Associated with the referrals received by the PA, 620 compliance documents were received, and 1,170 occasions of advocacy were undertaken.

The significant increase in referrals to the PA limited the PA's ability to act in respect of all matters referred and required the PA to develop a triaging system to support the application of its limited resources.

The PA's concerns in respect of the significant increase in referrals have been raised with the Magistrates Court and work continues to try and understand the reason behind this.

CASE STUDY

Ensuring equitable access for C&YP in family violence matters

The ACT Magistrates Court referred a matter to the PA involving CND2, a young person with disability who had reportedly engaged in family violence. As a result of the alleged family violence, family members applied to the court for a Family Violence Order against CND2. The PA spoke with CND2 at court and noted they had limited supports to assist them in participating in the court proceedings.

The PA supported the young person throughout the duration of the proceedings, which took place over several months. This included making referrals to the disability liaison officer at the court, who assisted in ensuring reasonable adjustments were made for the young person while at court, and to legal representatives.

The PA supported CND2 in their engagements with legal representatives to ensure they were able to understand the information provided to them, to weigh up their choices and communicate a decision. The matter was resolved without a need for final orders to be made.

Referrals for children and young people

In monitoring referrals made by the Magistrates Court, the PA has noticed a sustained increase in protection orders being sought to respond to conflict between C&YP, including in educational settings. Of the 113 referrals involving C&YP received in 2022–23, 82 (73 per cent) related to educational settings.

Figure 25: Protection matter referrals relating to C&YP according to setting (2022–23)

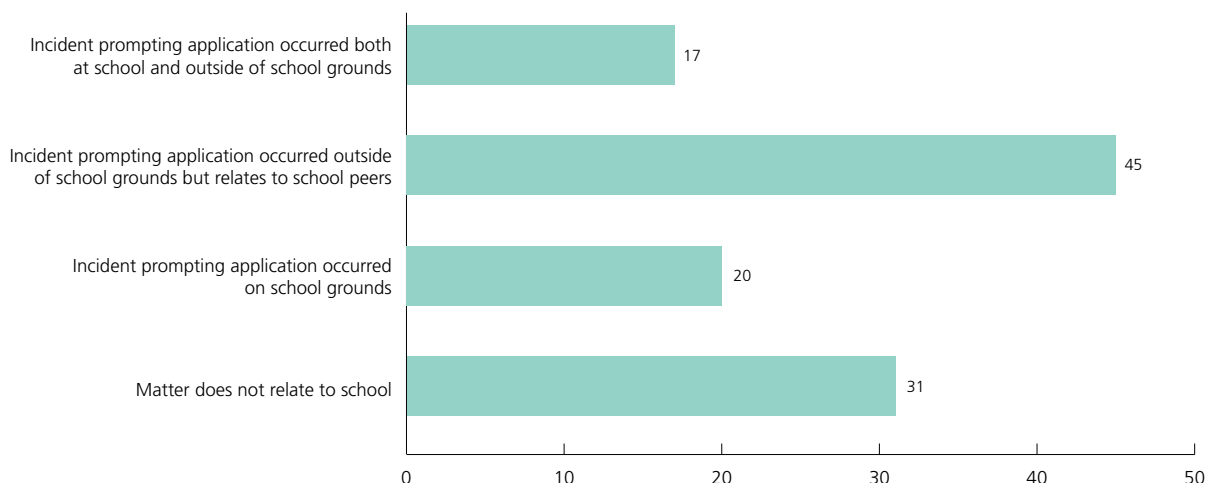
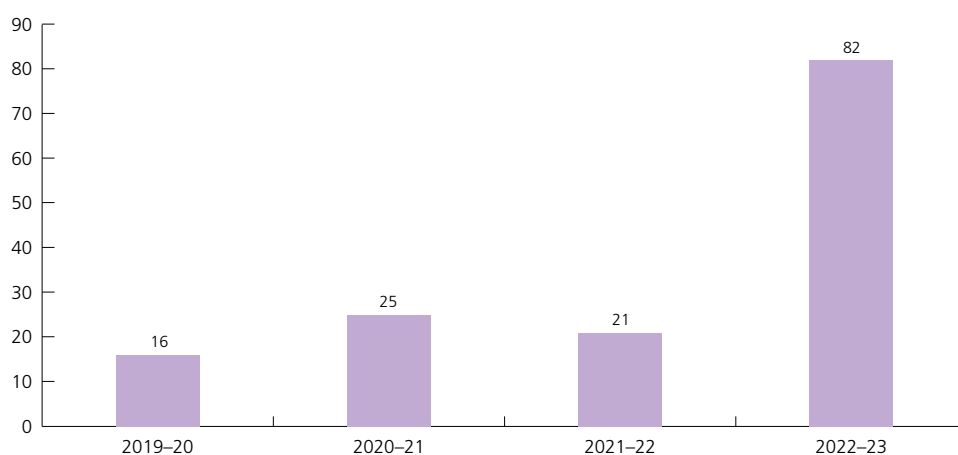


Figure 26: Number of referrals to the PA involving educational settings over the last four reporting periods (2019–20 to 2022–23)



The PA continues to monitor referrals in relation to C&YP given the impact protection orders (if made) can have on their right to education. Discussions have been initiated with the ACT Education Directorate to better understand the impact of peer-to-peer orders. The PA will continue to engage stakeholders to explore alternative mechanisms that might better assist C&YP involved in disputes in educational settings.

Interagency collaboration

In 2022–23, the PA continued its interagency collaboration work to protect and uphold the rights of people with complex needs/disability.

The PA meets regularly with stakeholders in the disability sector. These stakeholders include:

- Official Visitors for Disability
- Integrated Services Response Program at the Office for Disability
- Disability Liaison Officers through the ACT Government Disability Justice Strategy.

The PA provided advice on policy and practice regarding services for people living with disability, including providing:

- a human rights perspective to the Disability Justice Action Plan
- advice on the ACT Corrective Services Disability Action and Inclusion Plan
- submissions to the Office of the Senior Practitioner consultation on prohibited practices regulation and enforcement and compliance guidelines
- a joint submission to the NDIS Review.

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 and attends ACAT hearings pertinent to consumers within the portfolio.

Registered Positive Behaviour Support Plans for children and young people

Section 16 of the *Senior Practitioner Act 2018* (ACT) requires that registered Positive Behaviour Support Plans (PBSPs) for C&YP are provided to the PA for oversight of the use of restrictive practices. Since the commencement of the *Senior Practitioner Act 2018*, the PA has received 69 registered PBSPs for C&YP, 16 of which were received during the 2022–23 reporting period. Five of the 16 PBSPs received by the PA in 2022–23 were for C&YP who had a prior PBSP lodged with the Office of the Senior Practitioner (OSP).

During this reporting period, the PA developed and implemented a tool that applies a children's rights lens to enable review of the extent to which rights are reflected in PBSPs. Using this newly developed framework, the PA reviewed 45 of the PBSPs received since 2018, focussing on C&YP in out-of-home care and those for whom multiple plans had been approved.

In doing so, the PA sought to identify whether subsequent plans continue to evidence the need for ongoing restrictive practice use and the extent to which efforts were being made to increase the use of alternative, less restrictive, strategies.

Key themes emerging from the 2022–23 PBSP review

Children's and young people's participation in PBSP development: Relatively few PBSPs identified the extent to which C&YP were involved in or consulted in the development of their plan, nor their views and wishes in respect of plan implementation. Neither was it clear whether the proposed use, including when and how restrictive practices might be used, had been explained to the child/young person in ways they understood.

Explicit recognition for human rights: The extent to which Positive Behaviour Support Practitioners considered restrictive practice use within the context of their impact on the rights of the child/young person was unclear. Additionally, some plans did not adequately explain how the restrictive practices in the plan represented a reasonable, proportionate and least restrictive approach to the situations in which they were proposed to be used.

C&YP under care and protection: Of the 45 plans reviewed, 17 were developed for C&YP who were involved with the ACT care and protection system. Some of these plans also included restrictions or controls to limit a child's/young person's access to the internet or to certain applications/websites. While these do not technically constitute a restrictive practice, the PA will explore the OSP's views about these practices in the next reporting period.

Consideration of diversity: The review also identified limitations in the extent to which diversity was considered. While cultural considerations were generally applied in respect of Aboriginal and Torres Strait Islander C&YP and where the child's/young person's family spoke a different language in the home, the PA would also like to see Positive Behaviour Support Practitioners reflect on diversity more generally and the way this shapes a child's/young person's identity and their experience of the world. This includes diversity as it relates to their individual experience of disability, neurodiversity or gender identity and how this influences their interaction with the social and physical environment.

The PA will continue to review PBSPs using a rights-based framework with a focus on reviewing plans for C&YP who have had multiple registered plans. This will enable the PA to consider the ways in which ongoing restrictive practice use impacts C&YP.

PBSP data analyses for reviewed plans

Figure 27: Reviewed PBSPs by restrictive practice (2022–23)

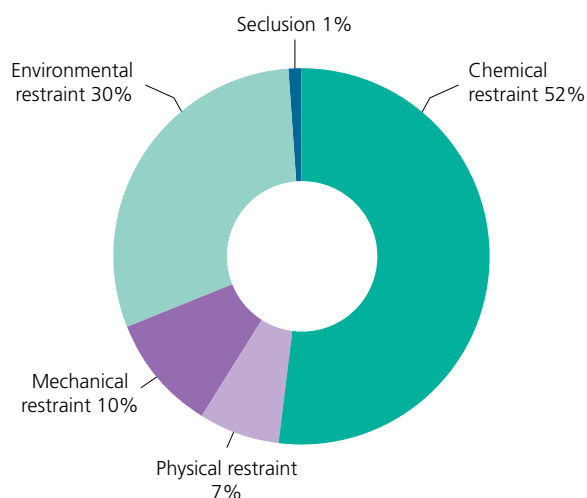


Figure 29: PBSPs according to number of restrictive practices (2022–23)

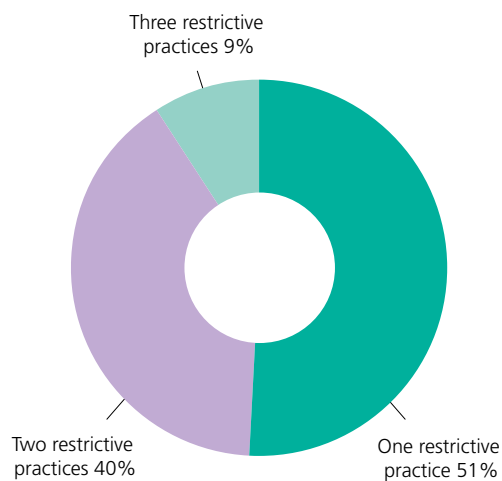


Figure 28: PBSPs according to length of OSP panel plan approval (2022–23)

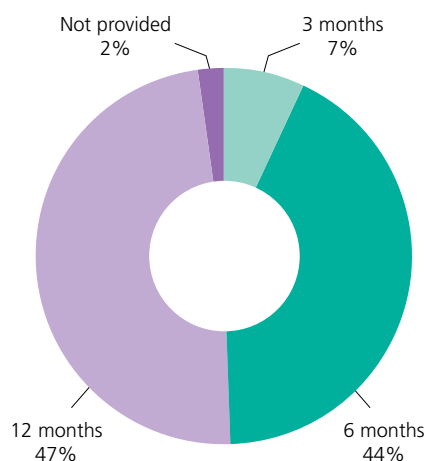


Figure 30: Types of school attended by C&YP with registered PBSPs (2022–23)

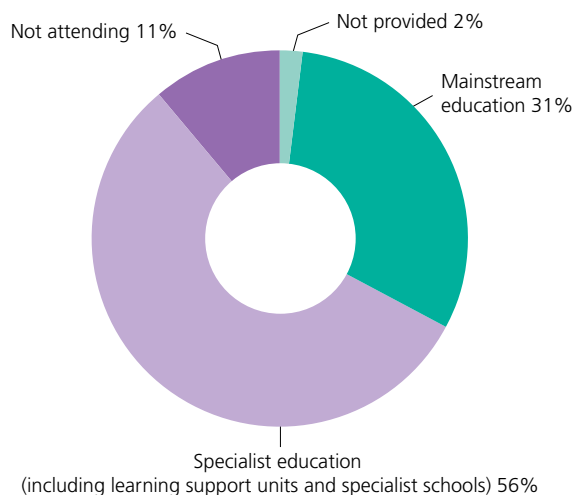
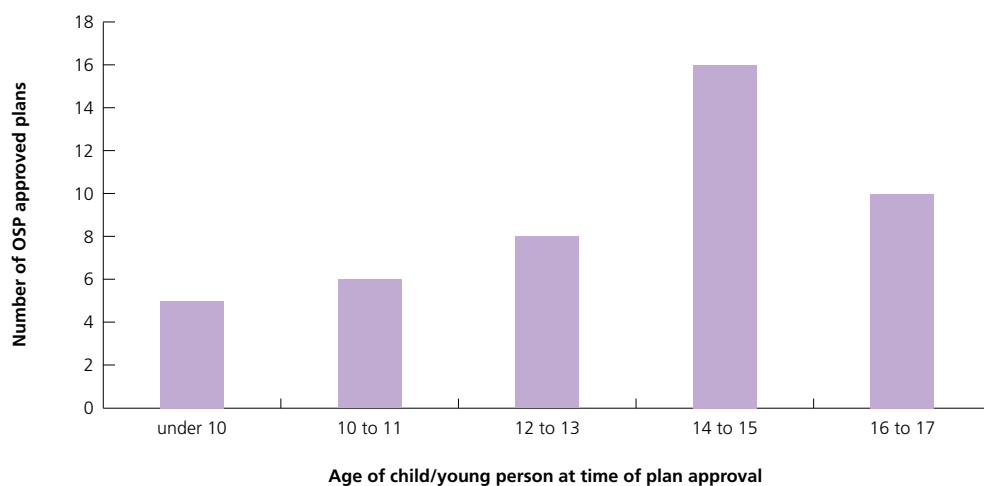


Figure 31: PBSPs according to age (2022–23)



Oversight of mental health facilities—Older persons and complex needs

The MH Act allows for the PA to visit any public mental health unit in the ACT to meet with individuals who are admitted. The PA regularly visits the Banksia and Acacia Wards at North Canberra Hospital, and the Adult Mental Health Rehabilitation Unit at the University of Canberra Hospital. During visits, the PA speaks with consumers about any concerns they have about their treatment, attends consumer meetings and meets with healthcare and allied health professionals providing mental health treatment, care and support.

CASE STUDY

Ensuring adequate mental health care for people with intellectual disability

In reviewing mental health documentation, the PA became aware of multiple readmissions to hospital for CND3 who has an intellectual disability. On several occasions, it appeared that CND3 presented to hospital, was discharged and was then readmitted to hospital on an involuntary mental health order within a short space of time.

The PA contacted CND3's mental health treating team to seek information regarding the reasons for discharge and rapid readmission. A barrier to discharge and reason for rapid readmission for CND3 was a lack of appropriate accommodation in the ACT.

The PA met with CND3 in hospital to ascertain their views in relation to their admission and discharge patterns. The PA advocated to ensure that CND3 received the necessary care and treatment they required in hospital, while also ensuring appropriate plans were being made for discharge that would better support the person to remain in the community.

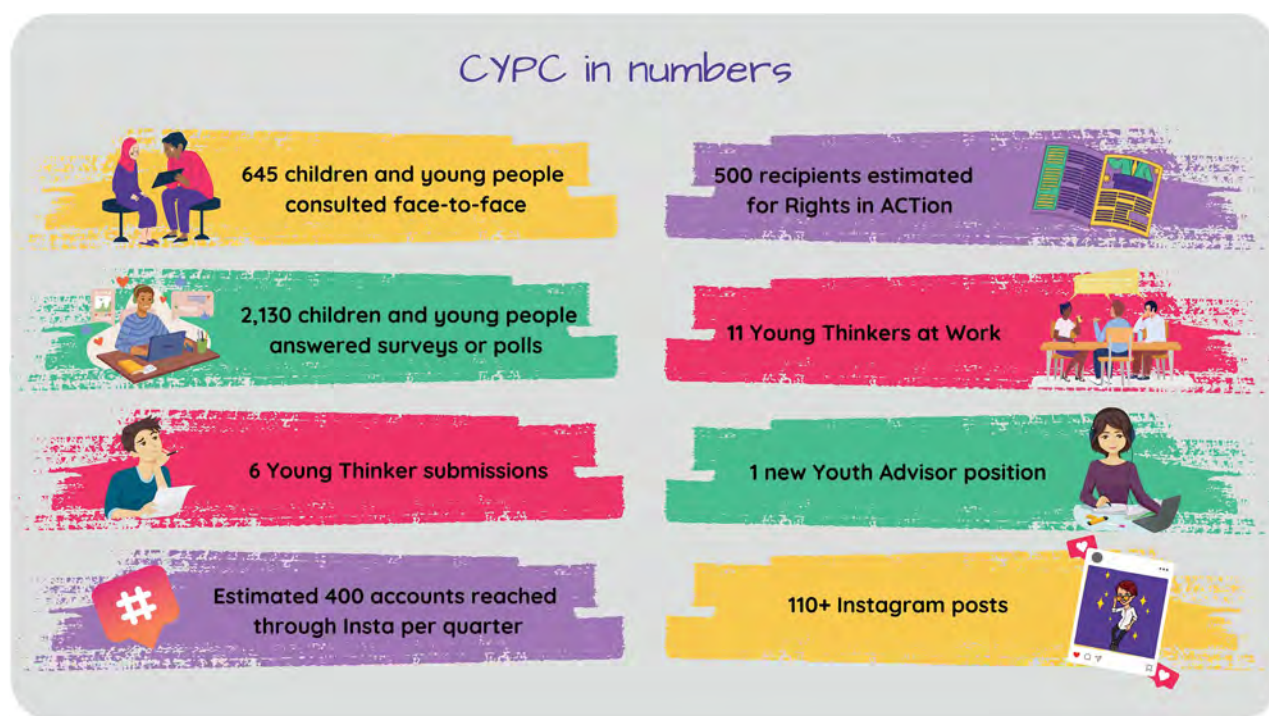
Children and Young People Commissioner

Role and functions

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

- engage with and listen to C&YP to ensure their views are heard on issues that affect them
- ensure that the rights of C&YP are considered and upheld in legislation, policy and practice
- improve services for all C&YP.

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



Delivering accessible services that empower and support people

Improving accessibility for children and young people

In 2021–22, the CYPC commissioned YLab, the social enterprise of the Foundation for Young Australians, to provide research and advice on improving the CYPC's online presence and accessibility. One of the issues identified was that the current CYPC logo is attractive to young children but is not engaging older C&YP.

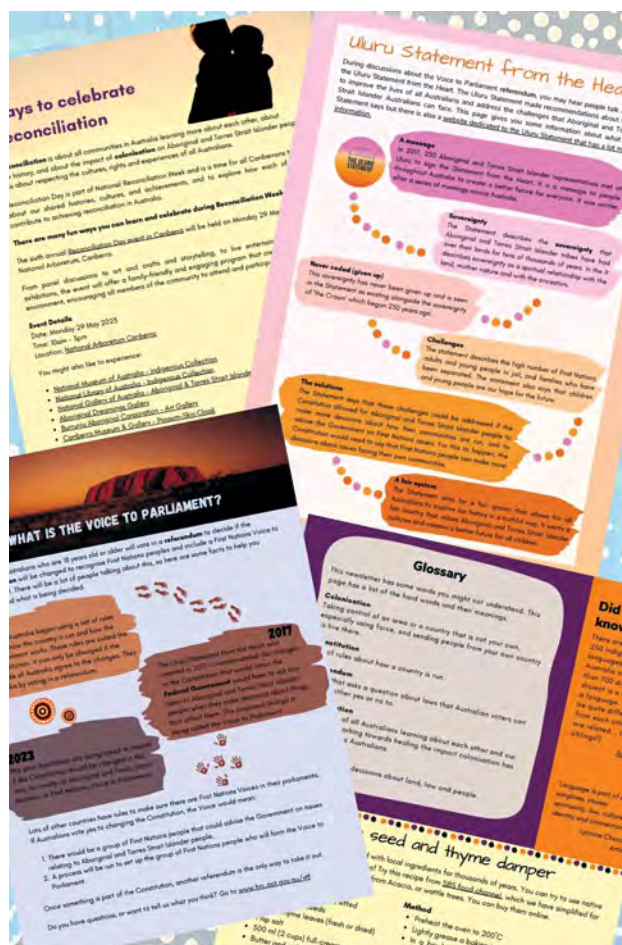
In 2022–23, the CYPC began a rebranding project to better appeal to a wider range of ages and to clearly communicate that the CYPC's work includes children and young people. To this end, the CYPC partnered with the Youth Coalition of the ACT to develop options for a new logo and branding package, then surveyed C&YP to find out which they preferred. The decision was given to C&YP so the logo that got the most votes was

the logo chosen. The resulting logo and branding have a broader appeal and increase the likelihood that both children and young people will see the CYPC as relevant and approachable. This is an important step towards increasing the accessibility of the CYPC and, through this office, the Commission as a whole.



An example of the CYPC's new logo.

Improving children and young people's access to relevant information



The Rights in ACTION newsletter.

The CYPC continues to advocate for more age-appropriate sources of information about the issues that matter to C&YP. A key part of this is leading by example. One way this is done is through a monthly newsletter called *Rights in ACTION*. Now in its third year, this newsletter has grown from being COVID-specific during lockdown, to being an issues-based source of information that focuses on C&YP's human rights.

In addition to the typical monthly newsletters, in May 2023, the CYPC partnered with the ACT Aboriginal and Torres Strait Islander Children and Young People Advocate, Barb Causon, to produce a special edition focused on providing C&YP with reliable information about the Voice to Parliament, the Uluru Statement and Reconciliation.

There is still a lack of tailored information in the community that is accessible for children of different ages about complex, controversial or difficult topics. However, C&YP have repeatedly told the CYPC that this is important to them. Being able to partner with Barb Causon's office was a valuable opportunity to enable C&YP to engage in a historically significant issue.

This edition was also sent to the Children's Commissioners, Guardians and Advocates in all Australian jurisdictions, who provided very positive feedback.

"This is a really special resource, well done, Barbara and Jodie!"

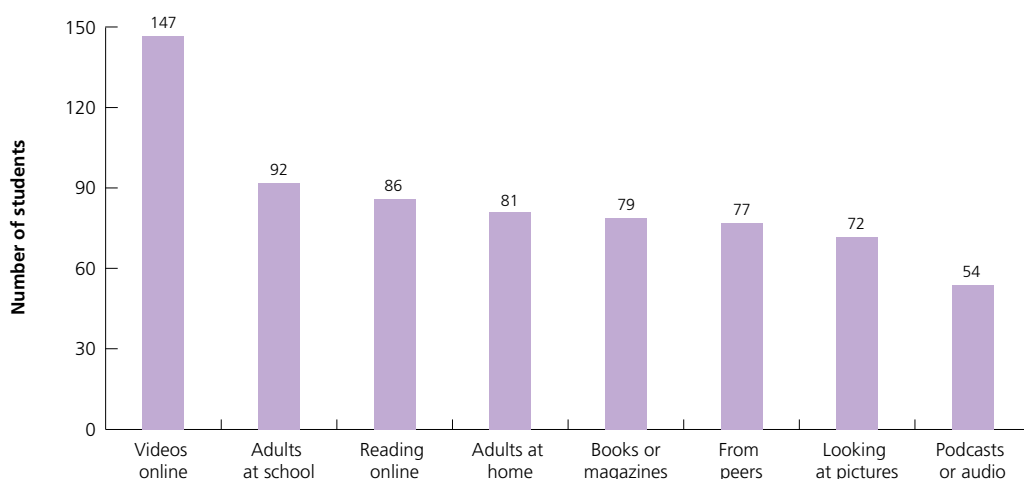
"This is, quite simply, amazing."

Child and youth-friendly versions of the ACT Human Rights Act

As part of the CYPC's commitment to ensuring C&YP have age-appropriate information about their rights, Dr Helen Watchirs, President and Human Rights Commissioner, and Jodie Griffiths-Cook, as CYPC, launched a joint project in 2022–23 to create child- and youth-friendly versions of the *Human Rights Act 2004*.

This project had two components, the first being to consult C&YP about what learning formats they prefer and the language they use when speaking about human rights. The CYPC conducted six consultation sessions on language and format with C&YP aged between 8 and 18 years. More than 170 students took part in interactive workshops designed to get them talking about their rights, in their own words. They also answered a survey asking about what formats human rights material should be presented to them in.

Figure 32: Students favourite ways to learn new things.



Feedback from the students showed that they prefer to learn by watching online videos, from adults both in the classroom and outside school, and by reading information through their own online research.

Over the course of the next reporting period, the second component of this project will begin. The CYPC will be using what was learned from C&YP to produce accessible versions of the *Human Rights Act 2004* using language C&YP are familiar with and in formats they recommended.

Young Thinkers at Work

In 2022–23, the CYPC again hosted work experience students through the Young Thinkers at Work program, having formalised this program in 2021–22 to improve the accessibility and enrichment for those students who come to us.

Throughout 2022–23, 11 work experience students were hosted by the CYPC team and contributed to the work of the office by:

- developing social media posts
- drafting content and editorial for the CYPC newsletter
- researching and producing Young Thinker pieces
- supporting consultations by transcribing session notes, reviewing reports, etc
- attending meetings and supporting the work that goes into making the office function
- meeting with Commission staff and/or Commissioners to find out about career paths.



Some of our Young Thinkers at Work and a selection of the work they have done.

Young Thinker Forum

The Young Thinker Forum continued in 2022–23, enabling C&YP in the ACT to contribute their views about topics that affect or interest them, with their submissions then published on the CYPC website. Submissions were received on racism, tokenism versus inclusion, gender equality, safety online and mental health.

C&YP can submit work in any format they want to. Although most take the form of opinion pieces, this year there was also a video submission about mental health.

The Young Thinker Forum also enables us to offer alternative communication avenues during consultations. This supports C&YP who may wish to have a say but would rather not do it during face-to-face conversations.

Improving services through capacity building

In addition to the CYPC's direct communication and services to C&YP, a key function of the CYPC is to provide advice to government and community agencies to assist in improving their services for C&YP. During the last reporting period, the CYPC took various opportunities to provide expertise on child-centric practice and influence the quality of services delivered by mainstream sectors. The focus was on strong messaging about the importance of consulting C&YP about matters that affect them and ensuring that their views are taken seriously.

Youth Advisor

This year, an exciting new position was created within the CYPC team, designed to give valuable work experience to young people and increase direct input by young people into the CYPC's work. It is a part-time paid position that will rotate to a new person every three to six months so that a diversity of ideas and experience contribute to the team.

The Youth Advisor works closely with Senior Advisors and the CYPC to undertake a broad range of activities that assist the CYPC to achieve its mandate to make the Commission accessible for C&YP. Youth Advisors also assist the CYPC and Senior Advisors to understand the issues that are important and relevant for C&YP so that the CYPC's work can be tailored to these issues as appropriate.

The position was piloted in the first half of 2023 so that the inaugural Youth Advisor could provide feedback about how to improve the experience for future young people who come into the role. The role is also designed so that each Youth Advisor comes in at least four weeks before the previous person leaves, to ensure continuity for projects but also to facilitate peer onboarding for the incoming young person.

Mentoring the Youth Advisory Council's Social Inclusion Focus Group

In 2022–23, the CYPC mentored a subgroup of the Youth Advisory Council in guiding their work on social inclusion. This year's Social Inclusion subgroup comprised six young people who designed and facilitated a session for other young people as part of the 2023 Youth Assembly on 23 June 2023. The CYPC worked with them to suggest ideas they could incorporate into their session to get the most out of it, and also co-facilitated the session at the Youth Assembly. The outcomes from the Youth Assembly will be compiled by the Youth Advisory Council and be used to generate recommendations that will be put to the ACT Government for a response.

Providing effective oversight

Policy advice and systemic reform

The CYPC regularly provides advice, input or comment on policy, service design and draft legislation, with a focus on the rights and wellbeing of C&YP. Examples in 2022–23 included:

- ongoing work to support the ACT Government's decision to raise the minimum age of criminal responsibility.
- providing feedback on the draft 'Child Safe Principles: Guide for Public Schools'.
- providing a submission to the Inquiry into the Future of School Infrastructure in ACT 2023.
- instigating a Joint ANZCCG letter to the National Inquiry into School Can't 2022.
- providing a submission to the Inquiry into Strengthening Inclusive Education in ACT Public Schools 2022.

Where practical and appropriate, the CYPC speaks directly to C&YP to draft submissions. Their input shapes the submissions and C&YP are quoted throughout. This is an important aspect of CYPC advocacy in leading by example and creating more opportunities for C&YP to have a say in matters that affect them.

The CYPC also provided detailed scrutiny of numerous Cabinet submissions and led or contributed to comments jointly tendered by the Commission on a range of matters.

Australian Children's Commissioners and Guardians (ACCG)

In 2022–23, the PACYPC was pleased to be able to resume face-to-face meetings of the Australian Children's Commissioners and Guardians (ACCG).

The ACCG comprises part of the broader Australian and New Zealand Children's Commissioners and Guardians (ANZCCG) group of national, state and territory children and young people commissioners, guardians and advocates. The ANZCCG promotes the safety, wellbeing and rights of children and young people in Australia and New Zealand. Collectively, they are committed to:

- promoting the rights of C&YP.
- advocating for the right of C&YP to participate in decisions that impact them.
- giving voice to the views of, and encouraging direct consultation with C&YP on matters that affect them.

- sharing the observations and perspectives obtained through members' varied functions and roles to ensure these drive improvements for C&YP across Australia and New Zealand.
- ensuring the best interests of C&YP are considered in the development of policies and programs.
- encouraging systemic improvement, informed by evidence-based research, in areas that impact on the rights, interests and wellbeing of C&YP, including but not limited to issues such as child poverty, housing and homelessness, mental health, child protection and youth justice.

At a meeting of the ACCG in Brisbane on 4 April 2023, members endorsed 11 key priorities³ to guide their work over coming years. These priorities affirm members' commitment to the self-determination and empowerment of Australia's First Nations peoples and acknowledge that policies and programs that benefit First Nations children will benefit all children. As a collective entity, members agreed to adopt the 11 priorities developed by their First Nations colleagues and, in furthering these priorities, seek to ensure a better future and improved outcomes for all Australian C&YP.

Child Safe Standards

Throughout 2022–23, the CYPC continued to advocate for a robust Child Safe Standards Scheme in the ACT to help prevent the abuse of C&YP. Nearly six years on from the final report of the Royal Commission into Institutional Responses to Child Sexual Abuse, which recommended that Child Safe Standards be compulsory for all organisations providing facilities or services to children, the CYPC is pleased to note the ACT Government has now committed funding to support the Commission to implement the scheme.

While the four-year funding envelope means that implementation will need to occur using a staged approach, this important step will support all organisations that work for or with C&YP to adhere to the National Principles for Child Safe Organisations and implement child-safe and child-friendly approaches to their business operations and governance.

³ Available at: 'ACCG Key Priorities' 4 April 2023.

Scrutiny

Recommendations relevant to the Commission were made in the Protection of Rights Services Review conducted from 2020 to 2021. 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. Action on the following recommendations was completed.

Table 32: Summary of recommendations

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 has also strengthened its consultations with key stakeholders in relation to strategic planning.	Complete
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 has engaged with ACAT and stakeholders regarding independent advocacy in ACAT mental health proceedings and successfully advocated for additional resources from the government which should enable them to improve services including individual advocacy.	Complete
22. The government seek joint advice from the Public Trustee and Guardian and Public Advocate regarding: the allocation of responsibilities to proactively support the quality of private guardianship and management and adequate representation of people subject to guardianship hearings at ACAT.	Agreed	The Public Advocate is a member of an oversight group for a project coordinated by the Public Trustee and Guardian (PTG) to train and support private guardians. The PTG liaises closely with the Commission in relation to issues involving private guardians and representation of those who may be subject to guardianship proceedings.	Complete

Summary of recommendations	Government response	Commission action	Status
26. 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 Our Booris, Our Way committee and the Commission.	Agreed	The Commission participated in the co-design process in 2022 for the establishment of the position of Aboriginal and Torres Strait Islander Children's Commissioner.	Complete
27. 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 supported the community and government decision that the Aboriginal and Torres Strait Islander Children's Commissioner would not be co-located with the Commission. There is a high degree of collaboration and interaction with the interim Aboriginal and Torres Strait Islander Children's Advocate. The Commission plans to continue this collaboration when the Aboriginal and Torres Strait Islander Children's Commissioner is appointed later in 2023.	Complete
28. 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 supported the information-sharing provisions in the <i>Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022</i> (ACT).	Complete
29. 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 has developed a collaborative working relationship with the interim Aboriginal and Torres Strait Islander Children's Advocate and will use this as the basis for a protocol with the Aboriginal and Torres Strait Islander Children's Commissioner when they are appointed later in 2023.	Complete
30. 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 supported provisions in the <i>Aboriginal and Torres Strait Islander Children and Young People Commissioner Act 2022</i> that provide similar powers and functions to those of the Children and Young People Commissioner and assist complainants to access its existing complaints processes.	Complete

The Government Response to the Standing Committee on Education and Community Inclusion's Report No. 6 into Racial Vilification was tabled on 21 March 2023. The following recommendation was relevant to the Commission.

Table 33: Summary of recommendation

Summary of recommendation	Government response	Commission action	Status
11. That the ACT Human Rights Commission review the functionality of the online reporting tool to ensure that it is accessible for people who speak languages other than English, the interface is intuitive and easy to navigate, and data collection is optimised.	Agreed	The Commission has continued to promote its web reporting tool to members of the multicultural community through publications and radio announcements. The Commission has considered the accessibility of the reporting tool in a planned upgrade of its website.	Complete

Aboriginal and Torres Strait Islander procurement policy

Table 34: Aboriginal and Torres Strait Islander procurement policy (ATSIPP) performance measures

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.	4
2	The number of unique Aboriginal and Torres Strait Islander enterprises attributed a value of addressable spend in the financial year.	\$18,051
3	Percentage of the financial year's addressable spend of \$2.22 million spent with Aboriginal and Torres Strait Islander enterprises (target 2%).	0.1%

Aboriginal and Torres Strait Islander reporting

The Commission relied on JACSD's input to progress reports under the *Aboriginal and Torres Strait Islander Agreement (2019–2028)*. The Commission participated in the Aboriginal and Torres Strait Islander Inter-directorate Committee and its subcommittee on addressing systemic racism. See page 27.

Internal audit

JACSD's internal audit policies and procedures apply to the Commission. See the JACSD annual report 2022–23.

Fraud prevention

There were no reports or allegations of fraud directed at the Commission in 2022–23. JACSD's fraud control policies and procedures applied to the Commission. Compliance is detailed in the JACSD annual report 2022–23.

Human resources management

The ACT Government's shared services portal and JACSD's people and workplace strategy branch assisted the Commission with recruitment in 2022–23. The Commission manages staff retention, support and training. In 2022–23 the Commission employed 109 staff (100 full-time equivalent, or FTE), most of whom were female.

Table 35: Full-time equivalent (FTE) headcount by gender

Classification group	Female	Male	Total
FTE by gender	90	10	100
Headcount by gender	98	11	109
Percentage of workforce	90%	10%	100%

Table 36: Headcount by employment classification and gender

Classification group	Female	Male	Total
Total	98	11	109
Administrative officers	54	5	59
Health professional officers	2	0	2
Legal officers	0	2	2
Senior officers	38	4	42
Statutory office holders	4	0	4

Table 37: Gender pay gap

Classification group	Female avg. salary (\$)	Male avg. salary (\$)	Pay gap
Total	109,295	121,155	9.8%
Administrative officers	93,829	100,615	6.7%
Health professional officers	107,327	0	0%
Legal officers	0	145,257	100%*
Senior officers	131,376	134,778	2.5%
Statutory office holders	261,509	0	0%

*Note: Some positions are currently only held by female or male office holders and analysis of a gender pay gap for such positions is not meaningful.

Table 38: Headcount by employment classification and gender

Employment category	Female	Male	Total
Total	98	11	109
Casual	0	0	0
Permanent full-time	53	6	59
Permanent part-time	21	1	22
Temporary full-time	20	3	23
Temporary part-time	4	1	5

Table 39: Headcount by age and gender

Age group	Female	Male	Total
Total	98	11	109
Under 25 years	4	0	4
25–34 years	35	3	38
35–44 years	21	5	26
45–54 years	22	2	24
55 years and over	16	1	17

Table 40: Headcount by diversity group

Group	Headcount	Total
Aboriginal and/or Torres Strait Islander	5	4.6%
Culturally and linguistically diverse	17	15.6%
People with disability	12	11.0%

Table 41: Years of service by gender

	Female	Male	All staff
Average years of service	3.3	6.3	3.6

Table 42: Recruitment and separation rates

Recruitment rate	Separation rate
43%	16%

Learning and development

Staff took part in a range of learning, development and training programs relevant to the ACT Government's output areas for the Commission, and to the Commission's strategic plan. Many of the following courses were offered through JACSD. All programs were delivered by registered training organisations.

Table 43: Learning and development

Course title	Course provider	No. of attendees
10th SNAICC National Conference	Agentur Pty Ltd	1
2022 Stop Domestic Violence Conference	AST Management	1
Aboriginal and Torres Strait Islander Awareness (SBS) e-Learning	ACTPS/LMS	29
Academy Core Training Virtual	Safe & Together Institute	2
Accidental Counsellor Training	LifeLine Canberra Inc.	8
ACT Government Probity in Procurement Training	ACTPS/LMS	1
ACT Government Procurement Delegations	ACTPS/LMS	1
ACT Government Procurement Module 1	ACTPS/LMS	3
ACT Law Society Training	Law Society of the ACT	1
ACT Public Service Induction Program e-Learn	ACTPS/LMS	8
ACTPS Induction program	ACTPS/LMS	8
ACTPS Culture Module 4 (SBS)	ACTPS/LMS	1
ACTPS Gender Module 3 (SBS)	ACTPS/LMS	1
Adobe Training InDesign Lite course	City Desktop Training Pty Ltd	1
Alcohol Tobacco and Other Drug Association ACT (ATODA Training)	ACTPS/LMS	1
Annual Castan Centre for Human Rights Law Conference	Monash University	3
ANU/NJCA Joint Conference: Therapeutic Jurisprudence	National Judicial College of Australia	8

Course title	Course provider	No. of attendees
Applied Suicide Intervention Skills Training	LifeLine Canberra Inc.	3
Applied Suicide Intervention Skills Training	ACTPS/LMS	1
Aspect Live Webinars	Autism Spectrum Australia	1
ASIST Suicide Lifeline training	LifeLine Canberra Inc.	12
Australian Elder Abuse Conference	Nectar Creative Communications Ltd	1
Australian Guardianship and Administration Council Conference	Conference Design Pty Ltd	3
Australian Institute of Family Studies Conference	Think Business Events	1
Behavioural De-escalation	ACTPS/LMS	21
Best Practice Recruitment & Staff Selection	ACTPS/LMS	7
Building Trauma Awareness	Blue Knot Foundation	3
Cancer Council Smoke-Free Training	ACTPS/LMS	1
Child & Adolescent Mental Health Conference	AST Management	2
Complaints Handling and Management Policy	ACTPS/LMS	1
Connect for Safety	ACTPS/LMS	2
Core Inclusion Program Part 4 of 4 (SBS) e-Learning	ACTPS/LMS	1
CPA Congress	CPA Australia	2
Cyber Security Essentials	ACTPS/LMS	27
Cyber Security Essentials for Executives	ACTPS/LMS	3
Data Breach Staff Module	ACTPS/LMS	1
Deafness Awareness Training	Sweeney Interpreting Pty Ltd	6
Defamation Law Training	Law Society of the ACT	1
Diplomacy Training program	Diplomacy Training program Ltd	1
Disability Awareness Part 3 of 3 (SBS) e-Learning	ACTPS/LMS	4
Domestic and Family Violence Foundation Training, Module 4: Diversity and Understanding	ACTPS/LMS	15
Domestic and Family Violence Manager Training, Module 5	ACTPS/LMS	1
Domestic Violence Crisis Training	Domestic Violence Crisis Service	2
DoNOHarm Training	Mental Illness Education ACT Inc.	1
Essentials for New Lawyers	Law Society of the ACT	1
Essentials for Volunteer Managers	Volunteering and Contact ACT Incorporated	1
Excel: Introductory (AMC)	ACTPS/LMS	1
Exploring Sexual Respect within the Context of Perpetrator work	ShantiWorks	2
Psychological First Aid	Phoenix Australia	2
General Awareness Information Privacy e-Learn	ACTPS/LMS	2
General Awareness Record Keeping and Freedom of Information e-Learn	ACTPS/LMS	2
HPE Content Manager (TRIM) e-Learning	ACTPS/LMS	1
IAHA Conference	Indigenous Allied Health Australia	1
In Conversation Being an Advocate for Change	YWCA Of Canberra	1
Intensive Conference: Staying ahead of the Game	Law Society of the ACT	1

Course title	Course provider	No. of attendees
Intensive: Working with the Courts	Law Society of the ACT	1
Intermediary Training	Converge International Incorporate Resolution	4
Internal Review of Decisions	ACTPS/LMS	2
JACS—Provide First Aid	ACTPS/LMS	2
JACS ACT Government Domestic and Family Violence —JACS Executives Onboarding	ACTPS/LMS	1
JACS Caught in the Act: Navigating ACT Legislation	ACTPS/LMS	1
JACS Finance Essentials—Credit Cards	ACTPS/LMS	4
JACS Finance Essentials for Managers	ACTPS/LMS	1
JACS Flexible Work Ergonomics	ACTPS/LMS	1
JACS Fraud and Ethics Awareness	ACTPS/LMS	1
JACS Induction	ACTPS/LMS	10
JACS Leadership: Unpacking the Invisible—Module 4 of 4	ACTPS/LMS	3
JACS LGBTIQ + AI (Awareness and Inclusivity) Foundation Training	ACTPS/LMS	22
JACS Mock Court International	ACTPS/LMS	1
JACS Reasonable Adjustment	ACTPS/LMS	2
JACS Respect, Equity and Diversity and Code of Conduct —eLearning (with audio)	ACTPS/LMS	1
JACS Supervisor Development Program (SDP) Module 4 of 4	ACTPS/LMS	1
Keeping Children and Young People Safe	ACTPS/LMS	1
Leadership Development program	Executive Leadership Australia	7
Legal Practice Management Workshop	Law Society of the ACT	1
LGBTIQ+ Inclusion Part 3 of 3 (SBS) e-Learning	ACTPS/LMS	1
LGBTIQ+ Tailored Training	Meridian Incorporated	4
Managing Vicarious Trauma	Blue Knot Foundation	3
Managing Wellbeing and Recognising Vicarious Trauma	Blue Knot Foundation	4
Media Training	Fifty Acres	10
Microsoft Teams e-Learn	ACTPS/LMS	1
National Child Protection Conference	Fifty Acres	1
Performance and Development in the ACT Public Service	ACTPS/LMS	1
Procurement ACT—Charter of Procurement Values	ACTPS/LMS	1
Protective Security Policy Framework Awareness	ACTPS/LMS	1
Provide First Aid (e-learning + Classroom)	ACTPS/LMS	1
Rebates	ACTPS/LMS	1
Responding to Voices	Humanitix Limited	1
Safe & Together Institute Training	Safe and Equal Inc.	4
Sexual Violence Prevention Training	Sexual Violence Prevention Association Inc.	1
She Leads Workshop—Imposter Syndrome	YWCA Of Canberra	1
Social Media Guidelines e-Learn	ACTPS/LMS	2

Course title	Course provider	No. of attendees
Standard Mental Health First Aid	ACTPS/LMS	1
Suicide Intervention Training	YWCA Of Canberra	1
TheMHS 3 Day Conference	TheMHS Learning Network	1
Training in Using Interpreters	Companion House Assisting Survivors of Torture and Trauma Incorporated	1
Trauma Responsive Leadership	Blue Knot Foundation	4
Trauma Sensitive Practice	Blue Knot Foundation	1
Understanding and Responding to Trauma	Mental Health Community Coalition ACT	10
Victim Services Training	YWCA Of Canberra	1
Working with Complex Trauma	Blue Knot Foundation	1
Working with Families Affected by Domestic and Family Violence: Working with the Parent who Uses Violence	ACTPS/LMS	1
Working With Men To End Family Violence: Basic Conference	The Hatchery(HUB) Pty Ltd	1
Working with Survivors of Trauma	Therapy Wisdom	1

Freedom of information

Members of the public can apply for access to information under the *Freedom of Information Act 2016* (ACT) (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

ACT Human Rights Commission

GPO Box 158

Canberra ACT 2601

Any FOI requests to the Commission will be listed in the JACSD disclosure log, available at 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 HR Act underpins all the work of the Commission. 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 2022–23, the Commission met these obligations in the following ways:

- Provided new staff with copies of the HR Act and information about Aboriginal and Torres Strait Islander cultural rights under the HR Act. The all-staff induction pack includes 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 2022–23, the Commission provided an overall total of 113 written legal advices, comments and submissions, including formal comments on 33 Cabinet submissions.
- Intervened in three legal cases raising the HR Act.
- Provided training to ACT Government agencies on their human rights obligations (six training sessions for 76 staff).
- 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.
- Discussed a range of human rights issues with agencies as part of the Commission's community education and engagement program.

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* (ACT). 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 used permanent recycling management disposal units and encouraged 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

In line with the Commission's governance and corporate support protocol with JACSD, its financial reporting is included in the JACSD annual report 2022–23.

Capital works

The Commission did not undertake activity related to capital works in 2022–23.

Asset management

The JACSD asset management strategies applied to the Commission and are detailed in the JACSD annual report 2022–23.

Government contracting

The online ACT Government contracts register records ACT Government contracts worth more than \$25,000. Information on Commission contracts, with an execution date from 1 July 2022 to 30 June 2023, can be accessed at www.tenders.act.gov.au/contract/search.

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 \$108,407 through the panel. This includes advertising, printing and graphic design services; and services for mandatory reporting such as the annual report.

Statement of performance

The Commission reports against accountability indicators in Output 1.5 of JACSD portfolio report. The table below 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.

OUTPUT CLASS 1 JUSTICE SERVICES

Output 1.5 Protection of Rights

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

	2022–23 Original Target	2022–23 Actual	Variance %	Note
Total Cost (\$'000)	16,336	18,410	13	1
Controlled Recurrent Payments (\$'000)	15,687	16,158	3	
Accountability Indicators				
Human Rights Commission				
a High level of client satisfaction with Human Rights Commission complaints process:				
– Percentage of survey respondents who consider the complaint handling service accessible	75%	77%	3	
– Percentage of survey respondents who consider the complaint handling service to be fair	75%	85%	13	2
– Percentage of complaints concluded within Commission standards ⁱ	75%	69%	(9)	
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 and other complaint jurisdictions:				
– Number of community engagement activities undertaken by the Commission	70	90	29	3
Public Advocate				
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%	78%	4	
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%	27%	8	
– Percentage of clients referred to the Public Advocate for whom a review of the documentation was undertaken	65%	80%	23	4
Victim Support ACT				
d Percentage of referrals to Victim Support ACT or the Victims of Crime Commissioner - actioned within five working days	95%	97%	2	

The above Indicators should be read in conjunction with the accompanying notes.

The above 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. Explanation of Accountability Indicators

i The Commission's complaint handling timeliness standards are met if a complaint is closed within 70 days of receipt for a simple matter and 250 days of receipt for a complex matter.

Notes - Explanation of Material Variances (≥ +/-10%)

- The higher than target outcome is mainly due to the impact of funding transferred from the Community Services Directorate to JACS for the *Family Violence Safety Action Program* initiative, the accrual of back pay relating to the proposed new Enterprise Agreement and higher than budgeted Victim Support Counselling services provided to clients.
- The higher than target outcome is due to the ongoing focus on early resolution of matters. The target has been increased from 75% to 80% for the 2023–24 reporting period.
- The higher than target outcome is mainly due to an increase in Community engagement activities following the easing of COVID-19 restrictions and the need for community education about new HRC jurisdictions. The target has been increased to 90% for the 2023–24 reporting period.
- The higher than target result is mainly due to a combination of increased staffing resources in the latter half of the reporting period and an ongoing focus on reviewing compliance documentation to support oversight functions.

Engaging and educating the community

President and Human Rights Commissioner

Exploring the right to a healthy environment

Over 80 people attended the Commission's 2022 International Human Rights Day community forum on the right to a healthy environment. Dr Watchirs facilitated the panel of:

- Professor John Knox from Wake Forest University in the USA, a former UN special rapporteur on the right to a healthy environment
- Mary Mudford, Assistant Director of Traditional Custodian Engagement, ACT Environment and Sustainability Directorate
- Dr Sophie Lewis, ACT Commissioner for Sustainability and the Environment
- Melanie Montalban, Managing Lawyer, ACT Environmental Defenders Office, also as facilitator.

ACT Human Rights Minister Tara Cheyne opened the forum and Environment Minister Rebecca Vassarotti closed the event. The forum was held on 9 December 2022 at the Canberra Museum and Art Gallery and online.

New guide explores 20-year impact of human rights legislation

Dr Watchirs launched a new collection of 20 human rights case summaries when she delivered the Law Society's Blackburn Lecture on 9 May 2023 during Law Week.

Dr Watchirs said that the collection showed how the HR Act had helped hold government public authorities to account and fostered a more inclusive and respectful Canberra over the past 20 years. The collection covers issues including:

- conditions of detention
- housing
- healthcare
- vilification and discrimination
- criminal law issues of bail, sentencing, fair trials and delay
- vulnerable witnesses, family violence and victims of crime
- legal representation
- miscarriage of justice
- mental health
- disability and guardianship
- planning
- Aboriginal cultural rights.

The guide and Blackburn lecture are available at hrc.act.gov.au/new-guide-explores-20-year-impact-of-human-rights-legislation/



ACT Law Society President Farzana Choudhury (left) and Dr Helen Watchirs at the 2023 Blackburn lecture.

Delivering human rights training

Staff of the President and Human Rights Commissioner's team delivered community education packages about human rights and the HR Act to varied audiences across ACT Government and the broader community. Human rights education was provided to more than 200 people across 10 separate addresses, presentations, workshops and training sessions, including:

- members of the ACT Law Society and ACT Bar Association
- postgraduate and undergraduate students from Australian Catholic University and Charles Sturt University
- attendees of an online symposium about the human right to a healthy environment in Australia
- ACT Government and ACTP staff
- new recruits undergoing induction as employees of high-risk settings (eg correctional and youth justice centres).

Reconciliation

The Commission had a stall at the Reconciliation Day fair at the National Arboretum on 29 May 2023; and hosted a reconciliation staff discussion. See page 27. The Commission also hosted a small bush tucker bake-off during National Reconciliation Week.

NAIDOC Week

Commission staff took part in a screening of *Where the water starts*, a film about caring for water resources in the Australian Alps and the Kosciuszko area. The Commission's cultural advisor spoke to staff about themes in the film.

Cultural rights lecture at ANU

Dr Watchirs and the Commission's cultural adviser and community liaison officer featured in a video lecture on rights to culture under the HR Act, shown to 60 health science students from the ANU Medical School. This is the third year the lecture has been screened.

ACHRA meetings & other engagements

Dr Watchirs attended Australian Council of Human Rights Authorities (ACHRA) meetings, as well as being the ACHRA representative on the Respect@Work Council, which coordinates national work on sexual harassment with regulatory, peak industry, legal and community representatives.

Dr Watchirs also spoke on human rights issues at many public events including:

- hosting a roundtable with the Australian Human Rights Commission on accreditation with the Global Alliance of National Human Rights Institutions
- International Women's Day event run by the Catholic Archdiocese
- interview with Human Rights Watch Asia division director Elaine Pearson, at ANU
- Amnesty International vigil for the women of Afghanistan
- CMTEDD executive retreat, on the impact of the HR Act.

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.

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. As a result of changes to our training and outreach during COVID, we now offer training online, as well as face-to-face where possible.

The Commissioner also:

- provided sponsorship for Council on the Ageing (COTA) ACT Silver is Gold Elders Expo
- sponsored the We Can Badminton research project initiated by the World Badminton Foundation, Canberra University and others to promote an inclusive badminton project in schools in the ACT.



Commission staff at the COTA Silver is Gold Elders Expo, in September 2022.



COTA ACT CEO Jenny Mobbs (left) with Seniors Advocacy Award winner, Kathryn McQuarrie from Pets and Positive Ageing. The Commission was a co-sponsor of COTA's Positive Ageing Awards in November 2022.

Campaigns, animations and information about making a complaint

A multilingual campaign of public service announcements (PSAs) was broadcast on CMS Radio, to raise awareness of complaint options for people experiencing racism, discrimination, elder abuse or other issues that might affect their health, wellbeing and safety. The PSAs were translated into Mandarin, Cantonese, Spanish, Arabic and Tamil. The Commission also intermittently placed advertisements in local publications including the Canberra Times and City News. The advertisements encouraged 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 Commissioner published a short animation for older people on YouTube, Facebook, Twitter and the Commission's website. The animation outlined concerns and complaints family, carers and older people can bring to the Commission, including concerns about abuse or neglect of an older person, complaints about retirement villages, services and age discrimination. The animation is simple and easy for a broad spectrum of the community to understand.

In addition, the Commission published a new suite of plain English brochures for people with a disability, older people, residents of retirement villages, Aboriginal and Torres Strait Islander people, people from culturally and linguistically diverse backgrounds. These were provided to community members at public events and distributed to stakeholders.

Victims of Crime Commissioner

It is important for VSACT to ensure that the community and services engaging with victims of crime are familiar with the help and support we provide. VSACT has a Community Engagement officer who is available to give presentations and attend meetings to talk about the many supports victims of crime can access. Community engagement about our services is also undertaken by our MLO and ALOs.

VSACT also invites other services to meet with and present to our staff so that we remain up to date on other supports that might assist our clients in their recovery from crime.

Examples of our community engagement in this reporting period are:

- presentation to Legal Aid Colleges Program on Charter of Victims' Rights
- Law for Non Lawyers presentation—support for victims of crime
- presentation to Child, Youth and Community Services 'Lunch and Learn' program
- presentation to staff at Meridian
- presentation to youth workers at Youth Coalition ACT
- presentation to staff at Housing ACT
- meeting and discussion with ACT Restorative Justice Unit
- meeting and discussion with Support Link
- meeting with DVCS about FAS and the Charter of Victims Rights
- meeting with Knowmore—a service providing advice to survivors of child sexual abuse about justice and redress
- attending Market Day at the courts during Law Week to provide information about services and support for victims of crime.



Staff at the Commission's stall at the FreshOut fair in March 2023.



Staff at the Commission's stall at the Reconciliation Day fair in May 2023.

Public Advocate

Presentation to Singapore University of Social Studies

On 19 September 2022, the PA provided a presentation about the role of the PA to the Singapore University of Social Studies for their Public Security in the Asia-Pacific trip to Australia, which requires students to engage with local practitioners in host countries about public security-related projects. Notably, this presentation discussed the PA's role in advocating for the rights and interests of children, young people and adults experiencing vulnerability and providing oversight of child protection, youth justice and mental health/forensic mental health services and systems in the ACT.

This presentation discussed the importance of advocacy and oversight in upholding the rights and interests of citizens, including by referencing the PA's responsibilities under the *Terrorism (Extraordinary Temporary Powers) Act 2006* (ACT). The presentation drew on examples that demonstrate how, in the dual roles of both PA and CYPC, this work contributes to systems change that improves public accountability and generates better outcomes both individually and collectively for those represented.

Other events and engagements

In addition to the engagement detailed above, other key community engagement events in 2022–23 included:

- ACT Forum on Harmful Sexualised Behaviours
- CYPs/ACT Together Foster and Kinship Carer Appreciation Event
- presentation of ACT Raise the Age Petition to the ACT Government
- *Next Steps for Our Kids* Sector Briefing
- roundtable on External Merits Review of Child Protection Decision-Making
- Murrumbidgee Education and Training Centre end-of-year assembly
- University of Canberra video explaining Public Advocate role.

Children and Young People Commissioner

Children's Week Awards 2022

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 2022, the CYPC's award went to Lauren Maloney for their contribution to supporting the wellbeing of others.

Given that the 2022 Children's Week theme centred on the right to a standard of living that supports wellbeing and healthy development, the CYPC awarded the award to Lauren to recognise the way in which they go above and beyond to support C&YP's wellbeing in what was initially a volunteer role with Daydream Machine, an organisation that supports C&YP with disability to explore their interests and talents in music, science, the arts and technology.



Children and Young People Commissioner, Jodie Griffiths-Cook (left) with award winner, Lauren Maloney.

Children's Laureate 2023

On 10 May 2023, the CYPC facilitated a community conversation with the 2023 Australian Children's Laureate, Gabrielle Wang, and a small number of C&YP and their parents. The conversation centred on the way in which Ms Wang has used her own experiences in bringing her storytelling to life. Notably it also provided an opportunity for the C&YP who attended to ask questions of Ms Wang.



Children and Young People Commissioner, Jodie Griffiths-Cook (left) with 2023 Australian Children's Laureate, Gabrielle Wang (right).

Parliamentary Group for Future Generations

In 2022–23, the CYPC was invited to join the Parliamentary Group for Future Generations, and to contribute to public policy conversations in the interests of mitigating against short-termism in decision-making. This group is a collective of federal members of parliament (MPs) and senators, co-chaired by Mrs Bridget Archer MP, Ms Zaneta Mascarenhas MP and Dr Sophie Scamps MP, who wish to advance a more equitable and sustainable future vision for Australia, working alongside practitioners, academics, advocates and other community representatives. The group is supported by Foundations for Tomorrow, an independent, leader-focused non-profit with the mission of protecting Australia's future interests.



The Parliamentary Group for Future Generations.

Other events and engagements

In addition to the engagements detailed above, other key community engagement events in 2022–23 included:

- human rights presentations to four schools
- consultation on the HR Act at six schools
- racism consultation/conversations with three groups (additional to those in 2021–22)
- CareersXpo racism consultation
- Children’s Week wellbeing consultation with five schools
- presentation of the outcomes of the wellbeing consultation to Minister Stephen-Smith
- visits to two early learning centres
- Book Week Story Time at two libraries
- ACT Youth Assembly
- video message for Wear It Purple Day
- running a stall at Wanniasa Primary School fair
- facilitating the Legislative Assembly Committee on Education’s meeting with young people.

Publications

Rights in ACTION

Beginning in January 2022, the CYPC commenced publication of a monthly newsletter to provide ACT C&YP with information about their rights as well as other relevant or interesting news about topics that impact on C&YP. Feedback has been consistently positive.

Editions regularly include input from C&YP themselves and invite input by posing questions, including activity sections that can be sent into the CYPC and asking for advice.



Artistic contribution from one of the newsletter’s readers, 8-year-old Mihini.

It really stabs me: From resignation to resilience—Children and young people’s experiences of racism in the ACT

After a year-long consultation with C&YP about their views on and experiences of racism in the ACT, the CYPC captured the responses in this report. The consultation asked what can be done to stop racism and how C&YP who experience it or witness it can better supported—those ideas form the basis of continued advocacy.

Listening to children and accepting how they feel

This publication presents the findings of a consultation with children about their wellbeing. A powerful and visual presentation of their needs and their resilience and an invitation to properly listen to C&YP before deciding how their wellbeing should be supported.

Consultation and engagement with children and young people: Statement of Ethical Practice

The CYPC aims to work towards, and lead, best practice when it comes to working with C&YP. To do so, these practice guidelines have been designed to guide such work and provide guidance to others wanting to consult with C&YP.

What we promise when you share your thoughts with us

This is a story-book style publication designed to explain the CYPC’s Statement of Ethical Practice to children. This is part of their right to information and supports informed consent processes with primary-aged children during consultations.

Acronyms and abbreviations

ACAT	ACT Civil and Administrative Tribunal
ACHRA	Australian Council of Human Rights Authorities
ALO	Aboriginal liaison officer
ACTCS	ACT Corrective Services
ACTCOSS	ACT Council of Social Service Inc.
AFP	Australian Federal Police
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
BDMR	Births, Deaths and Marriages Registration
CCR	child concern report
CHS	Canberra Health Services
CIC	Commission-initiated consideration
CKA	Comprehensive Kinship Assessments
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
CSD	Community Services Directorate
CSSS	Child Safe Standards Scheme
CYP Act	<i>Children and Young People Act 2008 (ACT)</i>
CYPC	Children and Young People Commissioner
CYPS	Child and Youth Protection Services
Dhulwa	Dhulwa Mental Health Unit
DHSDCSC	Discrimination, Health Services, Disability and Community Services Commissioner
DLO	disability liaison officer

DPP	Director of Public Prosecutions (ACT)
DFV	domestic and family violence
DVCS	Domestic Violence Crisis Service
ECT	electroconvulsive therapy
EMPA	<i>Evidence (Miscellaneous Provisions) Act 1991</i> (ACT)
FAS	Financial Assistance Scheme
FOI Act	<i>Freedom of Information Act 2016</i> (ACT)
FVIP	Family Violence Intervention Program
FVO	family violence order
FVSAP	family violence safety action pilot
HCMG	Hoarding Case Management Group
HR Act	<i>Human Rights Act 2004</i> (ACT)
HRC Act	<i>Human Rights Commission Act 2005</i> (ACT)
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, queer, asexual and other sexually or gender diverse people
MACR	minimum age of criminal responsibility
MAP	Management Assessment Panel
MH Act	<i>Mental Health Act 2015</i> (ACT)
MLA	Member of the Legislative Assembly
MLO	multicultural liaison officer
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> (ACT)
NDIS	National Disability Insurance Scheme
NPM	National Preventive Mechanism
NRS	national redress scheme
OICS	Office of the Inspector of Correctional Services
OV	Official Visitor
PA	Public Advocate
PACYPC	Public Advocate and Children and Young People Commissioner
PTO	psychiatric treatment order
RACF	residential aged care facility
SACAT	sexual assault and child abuse team
SAPRP	Sexual Assault Prevention and Response Program
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
VoC Act	<i>Victims of Crime Act 1994</i> (ACT)
VOCC	Victims of Crime Commissioner
VoCFA	<i>Victims of Crime (Financial Assistance) Act 2016</i> (ACT)
VRR	victim rights and reform
VSACT	Victim Support ACT
VSS	Victims Services Scheme
YTF	Young Thinker forum
WHS	work health and safety



ACT HUMAN RIGHTS
COMMISSION