



COVID-19 and human rights

The ACT Human Rights Commission promotes the human rights and welfare of all people living in the ACT. Respect and protection of human rights underpins all our work.

For many in the ACT, the COVID-19 pandemic is transforming how we live, work and interact with one another. The ACT Government has taken exceptional steps in recent months, in declaring a public health emergency and placing restrictions on gatherings, businesses and those entering the ACT, designed to contain and control the spread of the COVID-19 virus.

Protecting lives and health in an emergency – particularly for our most vulnerable – is undoubtedly a valid reason to limit how we normally enjoy our human rights like free movement and association. Human rights can only ever be limited in ways that are necessary, reasonable and proportionate, and this does not change amid a global pandemic. The challenge then is to ensure responses to COVID-19 do not unjustifiably limit our human rights.

The Commission remains committed to promoting the human rights and welfare of all people in the ACT during this challenging period. Even though our office is temporarily closed to the public, [Commission services are still available to Canberrans](#). We are closely monitoring the impacts of the pandemic response on Canberrans and are continuing to provide independent advice to government to ensure that human rights are properly considered during this crisis.

Responding to COVID-19 and its effects may engage and potentially limit many of the rights in the ACT's *Human Rights Act 2004* to varying degrees. Although many of these impacts may not yet be visible, other key issues are becoming clearer.

This factsheet provides an overview of human rights considerations associated with COVID-19 and provides links to relevant resources.

Oversight of restrictions

The actions the ACT has taken in response to COVID-19 to date appear to have achieved a reasonable balance in limiting human rights only insofar as necessary to protect public health. However, it is essential that all precautionary responses are carefully monitored as the situation evolves and public health advice is updated. Human rights obligations require that restrictions be eased as soon as they are no longer necessary or proportionate. Adverse and unjustifiable impacts on human rights must therefore be identified and

corrected at the earliest opportunity.

Emergency legislation must of course be prompt and responsive, but also independently monitored. On 2 April and 7 May 2020, the ACT Legislative Assembly passed the COVID Emergency Response Bill 2020 and the COVID-19 Emergency Response Legislation Amendment Bill 2020 respectively; each on the same day they were introduced. These bills enable ministers and some officials to make regulations or legislative instruments that modify how certain ACT laws operate during the emergency period. The changes also allow modifications to emergency timeframes under legislation and proceedings before courts and tribunals.

A human rights-based approach to such rapid law-making during a public emergency must involve greater accountability and responsive scrutiny mechanisms. Considered oversight plays a vital role in ensuring that any preventative measures are targeted to their purpose, feature adequate safeguards, mitigate against unforeseen consequences and, in turn, are deserving of the public's confidence. Human rights scrutiny is especially essential where legislative instruments, like the public health directions, determine obligations that may be punishable, for example by attracting fines or potential imprisonment for non-compliance.

In addition to responsive scrutiny and oversight, adopting a human rights-based approach recognises that there are people in the community who experience vulnerabilities and who may require additional support, services and assistance to ensure their needs are adequately met throughout this time. This includes people with a disability or mental health concerns, older people, people residing in closed environments, people experiencing domestic and family violence, people from an Aboriginal and Torres Strait Islander or culturally diverse background, and children and young people.

The Commission recently made a submission to the ACT Legislative Assembly's Select Committee into the Government's response to the COVID-19 pandemic, focusing on the continuing need for oversight and human rights-based scrutiny during the COVID-19 emergency. We are continuing to monitor the issues experienced by our clients to ascertain any other emerging rights issues or trends that warrant further analysis and oversight.

Publicly available statements in support of human rights considerations made during the COVID-19 pandemic:

[ACT Legislative Assembly – Select Committee on the COVID-19 pandemic response: Terms of Reference, Public Submissions, Hearings and Transcripts, Interim Reports](#)

[ACT Human Rights Commission submission to COVID-19 Select Committee](#)

[ACT Human Rights Commissioner \(Dr Helen Watchirs\), 'Human rights are more important than ever as we tackle COVID-19', Canberra Times, 3 April 2020](#)

[Victorian Human Rights and Equal Opportunity Commission – Embedding human rights during COVID-19](#)

[Queensland Human Rights Commission – COVID-19 and human rights](#)

[Parliamentary Joint Committee on Human Rights – COVID-19 Legislative Scrutiny: Scrutiny reports, public submissions](#)

Discrimination and vilification

We have seen increasing reports of race and occupation-based discrimination in response to the COVID-19 pandemic. These incidents are commonly directed toward people of Chinese and East Asian heritage, and frontline health and retail workers, and are almost always based on misconceptions about the spread of COVID-19. Discriminatory behaviours and attempts to incite hatred or violence are contrary to our rights, laws and values. They cause our friends, families, neighbours, colleagues and acquaintances unneeded stress, fear and isolation and sow disunity and exclusion.

Directly or indirectly targeting someone on the basis of their race, immigrant status, gender identity, occupation, trade or profession (e.g. being a health worker) age, disability including imputed disability remains unlawful in the ACT. If you see or have experienced discrimination or possible vilification please contact us to discuss your concerns, or to lodge a complaint.

Resources about discrimination and vilification relating to COVID-19:

[Joint Media Release – ACT Discrimination Commissioner Karen Toohey and ACT Government condemn rise in racist incidents related to COVID-19](#)

[ACT Human Rights Commission – Form for making a discrimination complaint](#)

[Australian Race Discrimination Commissioner – Statement about the need for data about COVID-19 related racism](#)

[Asian Australian Alliance – Confidential survey to report racial abuse against Asian Australians](#)

[Victorian Equal Opportunity and Human Rights Commission – Reducing racism during COVID-19](#)

Aboriginal and Torres Strait Islander people

During this difficult period, the cultural rights of Aboriginal and Torres Strait Islander peoples to maintain, control, protect and develop their cultural heritage and practices, language and kinships ties must be upheld. Physical distancing and restrictions on gatherings may, however, have a greater significance for First Nations people given the cultural importance of family and community connectedness in Aboriginal and Torres Strait Islander communities.

As well as being more vulnerable to COVID-19 due to, in general, a higher rate of chronic illness, such precautionary measures may have a disproportionate impact on Aboriginal and Torres Strait Islander people. Limitations on contact with family in closed environments and for children in out of home care may further exacerbate stress and anxiety, as may continuing disruptions in access to culturally appropriate legal and therapeutic services due to COVID-19.

Policing of public health directions must also ensure compliance checks, move-on directions, cautions and infringement notices do not disproportionately affect Aboriginal and Torres Strait Islander people who, for various reasons, may spend more time in public spaces than other groups.

Resources about COVID-19 and its effects on Aboriginal and Torres Strait Islander people:

[ACT Health – Aboriginal and Torres Strait Islander health during COVID-19](#)

[Aboriginal Legal Service \(NSW/ACT\) – COVID-19 information and contacts](#)

[Change the Record – Critical Condition - The impact of COVID-19 policies, policing and prisons on First Nations communities](#)

Aged care and older persons

While all age groups are at risk of contracting COVID-19, exposure to coronavirus presents a far greater risk to older people, especially those who have a chronic condition or weakened immune system. Aside from a greater risk of mortality, the ongoing pandemic also carries greater risks of poverty, age discrimination and isolation for some older Canberrans.

For some older Canberrans, COVID-19 and precautionary measures designed to protect their health (ie by limiting gatherings and visits and requiring self-isolation) have necessitated fewer opportunities for social contact with family, friends and service providers. The increased reliance on digital technologies to stay connected while physically distanced has also, for some, reduced access to accurate and essential information about the pandemic, current restrictions and available supports.

The situation of older people in residential aged care is also challenging. Access to residential aged care facilities for visitation has been limited in the ACT by operation of public health directions. We are concerned that in some cases service providers have adopted an overly conservative approach to implementing the directions beyond what is strictly required by the prescribed restrictions. Visits by family and friends provide an important means of monitoring that vulnerable people in closed environments are continuing to be treated humanely and with due respect for their inherent dignity. Restrictions on visits must therefore be only as onerous as strictly necessary having regard to current and evolving public health advice.

Older persons continue to have the same rights as any other age group and must not be subject to stricter public health restrictions based on solely on their age. Efforts to protect older persons must recognise the diversity of older people and the many roles they perform in the ACT, including as caregivers, volunteers and community leaders. Public health responses must accordingly balance older persons' ongoing autonomy, resilience and positivity with their potential increased vulnerability during the COVID-19 public health emergency.

New laws have recently commenced to enable the Commission to receive and help to resolve complaints about abuse, neglect or exploitation of vulnerable persons, including older people. If you are experiencing or aware of abuse, neglect or exploitation of a vulnerable or older person, you can call us for information and to discuss options for addressing your concerns or you can make a complaint.

Resources about COVID-19 and its impacts on older persons and residential aged care

[ACT Human Rights Commission – Complaints about abuse, neglect or exploitation of vulnerable Canberrans](#)

ACT Human Rights Commission

L2, 11 Moore St, Canberra City, Ph: (02) 6205 2222 www.hrc.act.gov.au / 4

[Public Health \(Residential Aged Care Facilities\) Emergency Direction 2020 \(No 2\)](#)

[Council on the Ageing – Industry Code for Visiting Residential Aged Care Homes During COVID-19](#)

[Council on the Ageing – Information about COVID-19](#)

[Health Direct – COVID-19 information and frequently asked questions for older Australians](#)

[The Conversation – Coronavirus lockdown measures may be putting older adults at greater risk of abuse](#)

[United Nations Policy Brief: The Impact of COVID-19 on older persons \(May 2020\)](#)

Children and young people

Measures taken to limit the spread of COVID-19 may disrupt the lives of ACT children and young people and impact their well-being, development and protection, especially for those involved in the ACT care and protection or youth justice systems. Children and young people may require additional support and assistance during COVID-19, particularly if they are experiencing distress, anxiety or additional stress.

Access to technologies needed to support social connection as well as remote learning and education have been limited for some children and young people in care during the pandemic response, as have contact visits with family members, caseworkers, and Official Visitors. Despite the pandemic, the Commission remains committed to advocating for greater transparency and external review of decisions that affect the day-to-day lives of children and young people in care.

The right to education has been limited for all children in the ACT to some extent during the pandemic. Most schools closed or limited attendance to children of essential workers, though have since reopened with students and teachers with chronic and compromised immune systems (eg respiratory illnesses) being permitted to work or study from home. School closures, transition to online learning and a staggered return to schooling may also be a source of anxiety or instability for children and young people, especially those with disability or who require reasonable adjustments.

It is essential during this period that education remains available, affordable, acceptable and adaptable as well as culturally appropriate. Responses must also reflect on the indispensable role of schooling as an environment in which children and young people develop their identity, beliefs and relationships as well as a much-needed safe space for those experiencing violence or abuse at home.

Further, remote online learning increases the susceptibility of children and young people to online grooming and to cyber-bullying. The rise in online predators has been noticeably evident, and significant investment in monitoring and shutting down national networks is being made by the Australian Federal Police. It is important to ensure that children and young people are aware of these risks and that messaging about risks such as these, and about the pandemic more broadly (including restrictions) is easily understood by, and accessible to, children and young people.

The Children and Young People Commissioner has a [Young Thinker Forum](#) that provides an opportunity for children and young people to communicate their views about issues that are important to them. If you are a young person

under the age of 25 years old and would like to have a say and share your story about COVID-19 and your experience, the Children and Young People Commissioner is keen to hear what you have to say and will use what you tell her to inform her work as well as advocating for what might need to change in other services and systems.

If you are a child or young person and need some help to get your needs met or have your rights upheld, please contact the [Public Advocate and Children and Young People Commissioner](#).

Resources about COVID-19 and children and young people:

[ACT COVID-19 website – Students, education, and childcare](#)

[ACT Community Services Directorate – Information for young people and families involved with youth justice](#)

[UN Committee on the Rights of the Child – Call to protect the rights of children during COVID-19](#)

[Committee on Economic, Social and Cultural Rights: Statement on COVID-19 and ESC rights](#) (which include education)

[The Alliance for Child Protection in Humanitarian Action, Technical Note: Protection of Children during the Coronavirus Pandemic \(v.1\), March 2020](#)

[InSight+ by Medical Journal of Australia – ‘COVID-19 racism is making kids sick’](#)

[AHRC – Statement about impacts of coronavirus on children](#)

[Australian Red Cross – Talking to kids about COVID-19](#)

[eSafety Commissioner – Advice for young people about staying safe online during COVID-19](#)

Disability

Responses to the coronavirus pandemic must be alert to its disproportionate impact on people with disability, and their carers. COVID-19 does not affect everyone equally and indeed people with disability may face greater risk of infection and complications due to underlying health conditions, like chronic diseases, respiratory illness and other co-morbidities. The needs of, and reasonable adjustments required for, people with disability during this difficult period, including access to health care, therapeutic services and regular medications and health supplies, must be considered. Additional support, such as communication aids and assistive technology, may be required to facilitate the inclusion and participation in decision-making for people with compromised understanding, intellectual disability, dementia or those with a memory impairment.

Physical distancing restrictions have caused anxiety about continuity of essential support by family, friends and support workers, as well as accessibility of therapeutic and responsive mental health services in the face of increasing demand. The wellbeing of those living in closed residential facilities, many of which remain in lockdown with restrictions on visits from family, friends, advocates, and Official Visitors, must also be maintained and subject to appropriate oversight.

The Disability Information Helpline is available on 1800 643 787 to provide information and referrals to people with disability who need help because of COVID-19. If you are experiencing or aware of abuse, neglect or exploitation of someone with a disability, you may be able to make a complaint to the Commission or, as a first step, discuss options with us to address your concerns.

Resources about COVID-19 and people with disability:

[ACT Human Rights Commission – Complaints about abuse, neglect or exploitation of vulnerable Canberrans](#)

[Official Visitor for Disability Services – Complaints and visits during COVID-19](#)

[Women With Disabilities ACT – COVID-19 updates and resources](#)

[NDIS Quality and Safeguards Commission – Coronavirus information for people with disability](#)

[Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability -Statement of Concern – Response to the COVID-19 pandemic for people with disability \(26 March 2020\)](#)

[Disabled People’s Organisations Australia – Statement of Concern – COVID-19: Human rights, disability and ethical decision-making](#)

[Australian Human Rights Commission – *Bringing a disability lens to the COVID-19 health policy response* \(May 2020\) Disability Discrimination Commissioner Dr Ben Gauntlett on the profound impacts of isolation measures on people with disabilities](#)

[Office of the High Commissioner for Human Rights - COVID-19 and the Rights of Persons with Disabilities: Guidance](#)

Family and domestic violence

Research indicates that family and domestic violence increases during periods of emergency and economic instability. Public health and community containment measures introduced to reduce the spread of COVID-19 such as limits on free movement, social distancing and self-isolation can provide perpetrators with additional opportunities to exercise control and violence, and make it harder for family violence victims to escape violence and seek support.

Family violence crisis services in the ACT have observed increases in the complexity of risks facing victims during COVID-19, including accessing support and reporting, as well as greater severity and complexity of violence with perpetrators using the pandemic to inflict new forms of abuse. Such heightened risks disproportionately affect specific groups in the community including women, older people and people with disability, and children and young people. Notably, visibility of children and young people decreased significantly at the height of COVID-19 restrictions due to school closures, withdrawal from early childhood education and care and the lack of community line-of-sight.

We call for greater coordination and sharing of relevant information among agencies and sustained public

awareness campaigns to communicate the availability of victim support services and the clear message that escaping family violence and seeking help is not in breach of COVID-19 requirements and laws.

If you have experienced family violence or sexual assault or are worried about your safety [Victim Support ACT](#) can assist.

Resources about COVID-19 and family and domestic violence:

[Victim Support ACT – Joint Media Release – ‘Family violence and sexual assault services remain open as demand grows\)](#)

[Domestic Violence Crisis Service – Ways to increase safety during COVID-19 in easy English](#)

[MADRE – Briefing Paper: A Practical Approach to Prevent, Address and Document Domestic Violence under COVID-19](#)

[International Journal of Mental Health Nursing – Family violence and COVID-19: Increased vulnerability and reduced options for support](#)

[Monash University, Gender-based violence and help-seeking behaviours during the COVID-19 pandemic](#)

Health

The Commission is closely monitoring the ACT Government’s health response to COVID-19. Human rights must be an integral part of the design and implementation of health-related policies to respond to the COVID-19 pandemic. A human rights based approach requires the government to provide timely and accurate health information, to provide protection against the disease, including giving special attention to the heightened disease risk of vulnerable and marginalised groups, and to ensure the availability and accessibility of essential medical treatment when needed.

The provision of critical care services must be non-discriminatory and particular care must be taken to guard against unconscious bias in decision-making. Access to critical care services must be based on clinical presentation and not assumptions about the person's age, disability, capacity, or other non-relevant factors. Steps must also be taken to safeguard the rights and well-being of frontline healthcare workers, including ensuring the availability and appropriate use of Personal Protective Equipment.

It is also essential that innovative responses such as the adoption of telehealth do not inadvertently impact on the health and wellbeing of our community by reducing essential in-person assessments. This includes in settings such as aged care or disability residential accommodation where a reduction or denial of in-person assessments as a risk management response can inadvertently lead to poor health outcomes for vulnerable people in our community.

Resources about health responses to COVID-19:

[Resources and information for cliniciansNo exceptions with COVID-19: “Everyone has the right to life-saving interventions” – UN experts sayDisabled People’s Organisations Australia – Statement of Concern – COVID-](#)

Housing, residential tenancies and occupancies

Physical distancing and restrictions on the operation of non-essential businesses have led to significant instability and unemployment in various industries (eg hospitality, air travel and tourism, creative arts and entertainment, and sports and recreation) which has, in turn, placed pressure on many people's ability to access and maintain stable and secure housing, and is also likely to disproportionately effect women. This pressure may manifest as difficulty servicing rent or mortgages or as increased tension and hostility among cohabitants.

Evictions and displacement during this public health emergency may expose affected persons to a greater personal risk of exposure to COVID-19, greater mental and emotional stress, potential involvement with the justice system. It is therefore essential that adequate and equivalent safeguards and supports are accorded to tenants and occupants to ensure they remain able to enjoy an adequate standard of housing as the effects of COVID-19 continue to be felt. Adequate housing options are also essential for homeless people and 'rough sleepers', who face greater vulnerabilities during this time.

Resources about COVID-19 and housing, tenancy and occupancy:

[ACT COVID-19 website – Information for tenants and occupants](#)

[ACT Legal Aid – Tenancy and COVID-19 factsheet](#)

[Care Financial Counselling and the Consumer Law Centre – COVID-19 Service Advice \(and financial hardship factsheet\)](#)

[YWCA Canberra – Services during COVID-19](#)

[Tenants' Union ACT – Q&A factsheet about COVID-19 and renting in the ACT](#)

[Canberra Community Law – Open Letter seeking moratorium of public housing and community housing evictions during COVID-19](#)

[Conflict Resolution Service – Residential Tenancy Mediation during COVID-19](#)

[Australian Housing and Urban Research Institute – Brief: How is the coronavirus pandemic affecting housing policy in Australia?; and Brief: What is at stake for people experiencing homelessness during the coronavirus pandemic?](#)

[United Nations Special Rapporteur on the Right to Adequate Housing, COVID-19 Guidance Note about prohibiting evictions](#)

Justice

As in other states and territories, precautionary measures against COVID-19 have had significant impacts on

the ACT's justice system, from consequences for trials and tribunal proceedings to effects on people on bail, under supervision and in prison and police cells.

To limit risk to court and tribunal users, revised arrangements have been implemented to avoid filing documents in person, to suspend enforcement action and to conduct all tribunal hearings and mediations by teleconference temporarily. Notably, amendments were made to the Supreme Court Act to authorise Supreme Court judges to dispense with criminal trials by jury for the duration of the COVID-19 emergency. However, some jury trials have recommenced as of 15 June 2020 provided social distancing can be observed. A bill was also introduced in the ACT Legislative Assembly on 18 June 2020 to repeal the authorisation for judge-alone trials.

The Alexander Maconochie Centre has similarly moved from in-person visits to online visits, including for family members and, in some cases, lawyers (see 'Prisons'). This responds to the greater risk of infection in a prison environment given the often [higher rates of chronic illness and a record of poorer health among inmates](#), and the limited space available for distancing or isolating confirmed or suspected cases. The ACT has also made provision for the early release of detainees convicted of low-level offences, or their temporary leave in the community where assessed as appropriate.

Resources about changes in the justice system in response to COVID-19:

[ACT Courts and Tribunal – Special Measures in response to the COVID-19 Virus](#)

[ACT Bar Association – Special Edition Bar Bulletin: Right to Trial by Jury](#)

[Legal Aid ACT – Weekly summaries of restrictions and COVID-19 measures \(Youtube\)](#)

[Canberra Community Law – Coronavirus service advice](#)

[Judicial College of Victoria – Coronavirus and the Courts](#) (concerning temporary operating procedures in Australian Courts)

[Judicial College of Victoria – Coronavirus Jurisprudence](#) (information about COVID-19-related cases across different areas of law)

[Justice Connect, Victoria – Resources for people affected by COVID-19](#)

Mental health

Though the COVID-19 emergency is, in the first instance, a physical health crisis, there are already signs that it is also taking a toll on people's mental health and wellbeing. There are early indications that general uncertainty about the future and specific pressures, like business closures and unemployment, concerns about keeping accommodation, working from home and fears about contracting the virus, are contributing to increased demand for mental health services. Coupled with significant changes in people's lifestyles and daily routines, reduced opportunities for exercise and movement outdoors and socialisation, these impacts may lead to serious long-term implications for Canberrans' mental wellbeing as well as greater rates of substance abuse.

The Commission is aware of a significant increase in the number of mental health-related presentations to Canberra Hospital and a corresponding need for greater information about availability and access to mental health services in easy English. Healthcare workers, older adults, children and young people, and people with disability, including those with pre-existing mental health conditions, may be at particular risk during this time, including where existing supports or information about available assistance are inadequate or where continuity of pre-existing mental healthcare has been interrupted.

Care must be taken to ensure that the implementation of public health restrictions and other precautionary measures do not disproportionately impact on the rights of people with limited capacity to advocate for their interests or to understand and comply with directions. As with other closed settings, restrictions on visitors to closed mental health wards and facilities may be reasonable, given the increased risk of the virus' spread in such environments, however such restrictions must be strictly temporary and at all times proportionate to public health advice.

Resources about mental health and wellbeing considerations during COVID-19:

[ACT Health - Mental Health and Wellbeing during COVID-19](#)

[Head to Health.gov.au – COVID-19 Support](#)

[Mental Health First Aid Australia – COVID-19 Health and Mental Health Resources](#)

[Black Dog Institute – Mental Health Ramifications of COVID-19: The Australian context](#)

[ABC News – ‘Coronavirus lockdown takes toll on mental health, with younger people worst affected, survey finds’ \(12 June 2020\)](#)

[United Nations Policy Brief: COVID-19 and the Need for Action on Mental Health](#)

[World Health Organisation – Mental Health and psychosocial considerations during the COVID-19 outbreak](#)

Policing and public health directions

As in other States and Territories, the ACT's Chief Health Officer (CHO) has issued a number of public health directions since early March aimed at limiting and controlling any spread of COVID-19. Though many of the restrictions implemented by these directions have begun to ease recently, their effects and those directions that remain still significantly limit human rights.

Measures in the directions that have limited rights include requiring self-isolation for people who have been diagnosed with COVID-19; controls on visiting residential aged care facilities; mandatory quarantine of people returning from overseas; closure of non-essential businesses; and limitations on the number of people at indoor and outdoor gatherings, including at residential premises. Where still in force, failing to obey these directions without reasonable excuse can be penalised by on-the-spot fines of up to \$1000. As such, public health directions have given police and other authorised officials significant discretion in their implementation and in deciding whether an excuse for non-compliance is reasonable. As at 10 June 2020,

there have been no fines or infringement notices issued in the ACT.

In this regard, we have welcomed ACT Policing's commitment to a graduated and educative approach to ensuring compliance. Given the inherent risk that these directions may reinforce over-policing of marginalised groups, such as people with disability, older people, Aboriginal and Torres Strait Islander peoples, people who are homeless, children and young people, or victims of family violence, the Commission is calling for regular public data about enforcement activities and affected demographics. In times of emergency, such accountability and transparency are vital for identifying and correcting inadvertent impacts on vulnerable groups.

Resources concerning implementation of COVID-related public health restrictions:

[Public Health Act 1997](#) (including Public Health Directions under 'Regulations & Instruments')

[ACT Government, COVID-19 Website – Latest changes to public health restrictions](#)

[ACT Policing – COVID-19 Response \(including media releases\)](#)

[Human Rights Law Centre – Explainer: Police powers and COVID-19](#)

[COVID Policing – Summaries and reporting of police interactions and enforcement of public health restrictions](#) (a project by legal and human rights advocacy organisations which allows people to lodge reports of interactions with police)

[UK Joint Committee on Human Rights: Background Paper about COVID-19 and Human Rights / Briefing on Regulations and Lockdown](#)

Places of detention

The Alexander Maconochie Centre (AMC) has adopted precautionary measures including physical distancing, screening on entry and isolation and testing of detainees where considered necessary as well as suspending in-person visits by family and friends in favour of conducting visits through videoconference software. Access to the AMC by community service providers has not been prohibited, however many organisations have temporarily suspended their physical presence within the AMC. Other places of detention, like the Bimberi Youth Justice Centre, are continuing to receive visitors, albeit subject to strict physical distancing and hygiene measures.

Denial of access to family visits can result in significant mental health concerns for people in closed environments, who are also at greater risk of infection than the general population due to the nature of the facilities and the lack of ability for suspected or confirmed cases to be fully isolated within them. Visits by family and friends provide an additional means of monitoring that vulnerable people in closed environments are continuing to be treated humanely and with due respect for their inherent dignity.

Restrictions on visits must therefore be only as onerous as strictly necessary with regard to public health advice. The Commission is continuing to monitor lockdown practices across closed environments to gain a clearer picture of whether they are being applied fairly and equitably. The Commission can be contacted

regarding a [discrimination, health service, disability or community services complaint](#) or if [advocacy support](#) is required to assist young people and adults detainees who are concerned that their rights are being breached.

Resources relating to responses to precautions against the spread of COVID-19 in prisons:

[ACT Corrective Services – Response to COVID-19](#)

[ACT Inspector of Correctional Services – Service Message and Briefing Notes](#)

[Queensland Human Rights Commission: Guide to human rights and discrimination in prisons](#)

[European Committee on the Prevention of Torture, Statement of principles relating to the treatment of persons deprived of their liberty in the context of the coronavirus disease \(COVID-19\) pandemic \(20 March 2020\)](#)

[COVID-19 Prison Watch, Australia](#) (including summaries of restrictions in Australian prisons, updates, and resources for advocacy)

[Canada OPCAT Project: COVID-19 – Deprivation of Liberty Information](#)

COVIDSafe application

The Commonwealth Government has developed and published a mobile application to facilitate rapid contact tracing in the event of further outbreaks of COVID-19 in the community and so more effectively protect public health.

The Commonwealth Government has introduced strict protections to accompany the COVIDSafe application. The *Privacy Amendment (Public Health Contact Information) Act 2020* (Cth) provides for a range of offences and privacy protections in relation to the collection, use, disclosure and deletion of data in connection with the COVIDSafe application.

However, the Commission is concerned that the Commonwealth legislative protections do not extend to information collected or received by ACT health authorities in the process of contact tracing, including where that contact tracing has been facilitated by the COVIDSafe application. Where ACT health authorities, in the process of contact tracing, verifying and recording personal details that were originally received from the National COVIDSafe Data Store, confirm these same details they will be taken to constitute a new record that contains personal information under ACT laws. Information recorded in this way will be protected only by applicable ACT privacy laws, which permit disclosure where authorised by an Australian law or court order. This raises questions about whether the protections in place are sufficient to safeguard personal privacy and freedom of association.

The Commission has called on the ACT Government to consider whether complementary Territory laws may be necessary to supplement the Commonwealth legislative framework and to explain whether and why existing ACT privacy laws or any agreement with the Commonwealth provides sufficient protection for any personal information obtained by virtue of the COVIDSafe application. We consider that providing express

legislative guidance about the potential use and disclosure of contact data by ACT health authorities may valuably serve to reassure Canberrans about installing the application and contribute to a greater uptake that better protects the ACT community.

Resources and commentary about the COVIDSafe application:

[Australian Government, Department of Health – CovidSafe help](#)

[Australian Human Rights Commission – Position on draft Biosecurity bill](#)

[UNSW submission to Parliamentary Joint Committee on Human Rights about the Biosecurity \(Human Biosecurity Emergency\) Determination 2020 \(Cth\) and the Privacy Amendment \(Public Health Contact Information\) Bill 2020 \(exposure draft\)](#)

[UNSW submission to Senate Select Committee on COVID-19 about the Privacy Amendment \(Public Health Contact Information\) Bill 2020](#)

Further advocacy resources

Other useful materials and resources that may be of assistance in monitoring the human impacts of COVID-19 and related preventive measures include:

[COVID-19 and the Law of Australia](#) (regularly updated online textbook by Emrys Nekvapil, Maya Narayan and Stephanie Brenker providing succinct, timely and accurate information about the interaction of COVID-19 and the law of Australia).

[COVID-19 Law Monitor Project](#) (project by Grata Fund and Hall & Wilcox to track legislation, determinations/orders and emergency powers that have been introduced, amended and rolled back across Australia during COVID-19)

[COVID-19 & Public Law](#) (special series of articles by contributors to the Australian Public Law blog, which is supported by the Gilbert + Tobin Centre of Public Law)

[On Guard](#) (resource portal for materials about COVID-19 and human rights interactions developed by the Australian Human Rights Institute)

[A timeline of COVID 19 and Human Rights: Derogations in time of public emergency](#) (Contribution to Griffith University News by Professor Sarah Joseph about international derogations of rights during COVID-19)