



Joint Communiqué

Roundtable discussion on an external merits review of child protection decisions in the ACT

22 July 2020

On 22 July 2020, the ACT Human Rights Commission and ACT Government jointly facilitated an online, cross-jurisdictional discussion about child protection decision-making, to inform the development of an external merits review model for the ACT.

The roundtable was co-facilitated by Ms Jodie Griffiths-Cook, ACT Public Advocate and Children and Young People Commissioner and Ms Amber Shuhyta, Executive Group Manager, Strategic Policy, Community Services Directorate.

A panel of experts from Queensland and Victoria generously provided their time and expertise to discuss the models of external merits review in both states and their learnings from implementation. The panel included:

- Ms Natalie Lewis, Commissioner, Queensland Family and Child Commission;
- Ms Deidre Mulkerin, Director-General, Queensland Department of Child Safety, Youth and Women;
- Professor Ned Aughterson, Senior Member, Queensland Civil and Administrative Tribunal;
- Mr Justin Mohamed, Commissioner for Aboriginal Children and Young People, Victorian Commission for Children and Young People; and
- Ms Elicia Savvas, Program Manager for Child Protection, Victoria Legal Aid.

In addition to representatives from the Human Rights Commission and the Community Services Directorate, organisations and representatives who participated included:

- ACT Chief Magistrate;
- Chair of the Our Booris Our Way Steering Committee;
- Chair of the Aboriginal and Torres Strait Islander Elected Body;
- CEO of SNAICC;
- President of ACT Civil and Administrative Tribunal;
- CEO of Legal Aid ACT;
- ACT Women's Legal Centre;
- ACT Council of Social Services;
- Youth Coalition of the ACT;
- CREATE Foundation;
- ACT Disability, Aged and Carer Advocacy Service; and
- Advocacy for Inclusion.

Aunty Janette Phillips provided a Welcome to Country to all participants and set the scene for a collaborative and forward-thinking conversation.

Key findings that emerged from the discussion included:

- The need to establish an external review mechanism to build community confidence and to ensure that human rights are properly protected and balanced.
- Internal and external review processes need to be established as a unified system with clear governance arrangements, decision-making points and timeframes.
- Any external review process must be simple, accessible and responsive.
- Participation of children and families must be prioritised, and active efforts should support their right to review decisions.
- Independent legal representation of a child should be considered, drawing on Queensland's experience.
- Embedding the Aboriginal and Torres Strait Islander Child Placement Principle in all aspects of the care and protection system is critical.
- Further consideration must be given to the need for active participation with Aboriginal and Torres Strait Islander Community Controlled Organisations in supporting improved outcomes for Aboriginal and Torres Strait Islander children, young people and families, drawing on Victoria's experience.
- Support is needed to help people participate equally in any review processes, both external and internal, and address the power imbalance inherent in these processes. This may be especially important for children, people with disability or parents who have difficulty understanding or engaging with the complexities of the system.
- Further exploration is required to consider a trauma-informed and restorative approach to reviewing decisions in child protection.

These discussions provide a valuable foundation for the next stage of work to explore the appropriate model for an external merits review process in the ACT. This will include examination of the way an external merits review mechanism will work with internal review processes and the Courts.

A follow up online meeting with the Community Services Directorate, ACT Human Rights Commission and ACT stakeholders is anticipated to be held on 17 September 2020. An invitation to ACT participants will follow.

We deeply appreciate the valuable insights shared through this forum and the perspectives from other jurisdictions. We thank everyone who attended the roundtable for sharing their thoughts about how existing systems and practices might be improved in the ACT.

Decision making in child protection is inherently complex, but no matter which part of the system we work in, we all want to achieve the best outcomes for children and young people in our community. We welcome the transparency, openness and rigour that comes with implementing an external merits review. We are committed to establishing a robust external merits review process for promoting public understanding and confidence in the ACT's care and protection system.



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Minister for Children, Youth and Families
ACT Government



Dr Helen Watchirs
President and Human Rights Commissioner
ACT Human Rights Commission