

ACT HUMAN RIGHTS  
COMMISSION

# ANNUAL REPORT 2016–2017

## OUR VISION

*To create an inclusive community that respects and realises everyone's rights.*

## OUR MISSION

**We strive to achieve our vision by:**

*leading positive systemic change  
engaging and educating the community  
delivering accessible services that  
empower and support people  
providing effective oversight*

## OUR VALUES

*Respect  
Collaboration  
Innovation  
Accessibility  
Independence*

Cover graphic: *Nautilus* by Lynnice Keen.

Nautilus has been a symbol of the ACT Human Rights Commission since its inception in 2006. For us, it symbolises: strength; balance; harmony; expansion; growth; protection and renewal.

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Designed and typeset by: ACT Government Publishing Services  
GPO Box 158 Canberra City ACT 2601

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# Contents

<b>SECTION A: TRANSMITTAL CERTIFICATE</b>	<b>5</b>
From the President and Human Rights Commissioner	7
From the Health Services, Discrimination, Disability and Community Services Commissioner	9
From the Public Advocate and Children and Young People Commissioner	10
From the Victims of Crime Commissioner	11
<b>SECTION B: PERFORMANCE</b>	<b>12</b>
<b>B.1 Organisational Overview</b>	<b>12</b>
<b>B.2 Performance</b>	<b>21</b>
RAISING HUMAN RIGHTS AWARENESS AND IMPACT	22
Strategic Priority 1: make human rights relevant to everyone	22
ADVOCATING FOR CHANGE	25
Strategic Priority 2: lead systemic change to address vulnerability	25
DELIVERING SERVICES	33
Strategic Priority 3: Enhance Services and Service Delivery	33
<b>B.3 Scrutiny</b>	<b>70</b>
<b>B.4 Risk Management</b>	<b>70</b>
<b>B.5 Internal Audit</b>	<b>70</b>
<b>B.6 Fraud Prevention</b>	<b>70</b>
<b>B.7 Work Health and Safety</b>	<b>71</b>
<b>B.8 Human Resources Management</b>	<b>71</b>
<b>B.9 Ecologically Sustainable Development</b>	<b>74</b>
<b>SECTION C: FINANCIAL MANAGEMENT REPORTING</b>	<b>75</b>
<b>C.1 Financial Management Analysis</b>	<b>75</b>
<b>C.2 Financial Statements</b>	<b>75</b>
<b>C.3 Capital Works</b>	<b>75</b>
<b>C.4 Asset Management</b>	<b>75</b>
<b>C.5 Government Contracting</b>	<b>75</b>
<b>C.6 Statement of Performance</b>	<b>76</b>
<b>SECTION N: COMMUNITY ENGAGEMENT &amp; SUPPORT</b>	<b>78</b>
Strategic Plan Priority 4: Increasing Community Engagement	78
Community Engagement activities	78
Grants and Sponsorships 2016–17	83
<b>SECTION O: JUSTICE AND COMMUNITY SAFETY</b>	<b>84</b>
<b>O.1 Bushfire Management</b>	<b>84</b>
<b>O.2 Freedom of Information</b>	<b>84</b>
<b>O.3 Human Rights</b>	<b>84</b>
<b>O.4 Legal Services Directions</b>	<b>84</b>
<b>SECTION P: PUBLIC SECTOR STANDARDS AND WORKFORCE PROFILE</b>	<b>85</b>
<b>P.1 Culture and Behaviour</b>	<b>85</b>
<b>P.2 Public Interest Disclosure</b>	<b>85</b>
<b>P.3 Workforce Profile</b>	<b>85</b>

<b>SECTION Q: TERRITORY RECORDS</b>	<b>86</b>
Q Territory Records	86
<b>APPENDIX A: COMMISSIONER'S PRESENTATIONS</b>	<b>87</b>
President and Human Rights Commissioner	87
Discrimination, Health Services, Disability and Community Services Commissioner	87
Public Advocate and Children's and Young People Commissioner	88
Victims of Crime Commissioner	88
<b>CONTACT OFFICER</b>	<b>89</b>
<b>ACRONYMS AND ABBREVIATIONS</b>	<b>90</b>

# SECTION A: TRANSMITTAL CERTIFICATE

Mr Shane Rattenbury MLA  
Minister for Justice and Community Safety  
Legislative Assembly for the ACT  
Canberra ACT 2601

Dear Minister,

This Report has been prepared under section 6(1) of the *Annual Reports (Government Agencies) Act 2004* and in accordance with the requirements under the Annual Report Directions. It has been prepared in conformity with other legislation applicable to the preparation of the Annual Report by the ACT Human Rights Commission (the Commission).

We hereby certify that the attached Annual Report is an honest and accurate account and that all material information on the operations of the Commission during the period 1 July 2016 to 30 June 2017 has been included.

We also certify that fraud prevention has been managed in accordance with Public Sector Management Standards Part 2.

Section 13 of the *Annual Reports (Government Agencies) Act 2004* requires that you cause a copy of the Report to be laid before the Legislative Assembly within three months of the end of the financial year.

Yours sincerely,



Dr Helen Watchirs OAM  
President

6 October 2017





ACT Human Rights Commissioners: L-R Victims of Crime Commissioner John Hinchey, Public Advocate and Children and Young People Commissioner Jodie Griffiths-Cook, President and Human Rights Commissioner Dr Helen Watchirs, Discrimination, Health Services, Disability and Community Services Commissioner Karen Toohey.

## From the President and Human Rights Commissioner

This has been a year of consolidation and growth, the first full year of the new, larger ACT Human Rights Commission working together in our new premises.

The Commission's expanded jurisdiction to include the Public Advocate and Victims of Crime Commissioner increased the opportunities and benefits for our clients by growing our expertise and the range of services we offer the ACT community.

As human rights overarch all of the Commission's functions, my focus in the past year was building human rights awareness within all our teams. This ensured that our case workers cross-referred clients to respective Commissioners when needed, and that whole-of-Commission submissions and all other systemic legal and policy work was embedded in a human rights framework.

A highlight of the year was the Commissioners and staff coming together to develop our new Strategic Plan to guide our work across the coming three years. This annual report uses the Plan's four key priorities as a framework to describe our achievements in the past year.

Another accomplishment was our new Client Service Charter published in December 2016. The charter was developed using a public survey on the ACT Government's *Have Your Say* website and targeted consultations with stakeholders, and is available on our website.

Harmonising our operations has been an internal focus in the past year. The Commission developed two draft protocols under the *Human Rights Commission Act 2004* to provide clear operations and service provision frameworks following its restructure and expansion. A draft Governance and Corporate Support Protocol has been provided to the Justice and Community Safety Directorate Director-General for endorsement in the coming year. As President, I also drafted an Operations Protocol to ensure our services to further enhance the expanded Commission's integration. We embarked on a scoping project to integrate our information systems for reporting and case management.

As Human Rights Commissioner I received five formal notifications about human rights issues being raised in litigation before the Supreme Court and intervened as *amicus* in a matter concerning the confiscation of criminal assets, but the case did not fully proceed. The *Human Rights Act* only requires formal notification to the Commissioner and Attorney-General if a human rights matter is raised in the Supreme Court. However, I also received notices about two ACT Civil and Administrative Tribunal matters involving human rights issues and I intervened in one matter to provide a submission concerning the provision of interpreters for civil cases before the Tribunal. The Commission believes that more human rights matters are being raised in the ACT Civil and Administrative Tribunal and ACT Magistrates Court, indicating a growing awareness of the legislation among the legal profession.

One of the Commission's most significant roles is oversight of the Alexander Maconochie Centre (AMC) adult prison under the *Corrections Management Act 2007* and the Bimberi Youth Justice Centre under the *Children and Young People Act 2008*. As President, I chair a regular oversight committee meeting at the Commission about the adult prison. I also hold regular, and separate meetings with the Director-Generals of the Justice and Community Safety Directorate, Community Services Directorate, Education and Training Directorate, Health Directorate and relevant ministers.

The Commission made a substantive submission to the Moss Inquiry into the AMC and followed up by briefing the Justice and Community Safety Minister on our recommendation for an ACT Inspector of Corrective Services. The Commission first called for this in 2007, and I will continue to press this issue in the coming year as the ACT Government has committed to an Inspectorate by the end of 2017.

The Human Rights and Policy team has supported the Health Services Commissioner with research and investigation for her Commission-Initiated Consideration.



Dr Helen Watchirs



Two forums were convened on the Australian Government's pending ratification of the UN Convention of Torture Optional Protocol Against Torture in December 2017. At the first in November 2016 the Commission welcomed the WA Inspector of Custodial Services Neil Morgan's participation. The second in June 2017 was co-hosted with the Australian Human Rights Commissioner Ed Santow.

The Commissioner also continued to advocate for an ACT Disability Justice Strategy similar to those adopted by other jurisdictions such as South Australia and more recently Tasmania. We hope to see an ACT strategy developed in 2017-18.

As this report highlights, the Commissioners and staff worked hard throughout the year to deliver human rights and discrimination training, explain the Commission's new structure and engage with the public online and directly at community events to promote human rights.

We were very proud when in July 2016 the Commission's Human Rights Legal and Policy team was awarded a High Commendation in the ACT Chief Minister's Public Service Awards for Excellence for our *Diversity Goes With Our Territory* campaign – an online and community campaign to promote racial and religious diversity and anti-discrimination in the ACT.

Three large community events were held in 2016–17 including a formal launch of the Commission at its new premises in August 2016 with about 140 people including Attorney-General Simon Corbell. A UN Declaration of Rights for Indigenous Peoples 9th Anniversary event in September 2016, co-hosted with the Aboriginal and Torres Strait Islander Elected Body, attracted more than 130 people. The night involved a special film screening of *Putaparri and the Rainmakers* and the release of a new Commission fact sheet on section 27(2) of the *Human Rights Act* that recognises and protects Aboriginal and Torres Strait Islander cultural rights. The Commission marked International Human Rights Day in December 2016 with a well attended community forum on *Gendered Violence* co-hosted by Amnesty International ACT/NSW with several speakers, including Louise Taylor (Legal Aid ACT), Jo Wood (ACT Coordinator-General for Family Safety), Nishara Fallon (Amnesty) and Victims of Crime Commissioner John Hinchey.

I'd like to thank the Commission staff for their hard work and dedication in the past year. Across 2016–17 they handled 1,207 human rights enquires and more than 500 complaints, delivered advocacy services and support to 1,843 Victims Support ACT clients and 2,207 people brought to the Public Advocate's attention, delivered more than 30 submissions and promoted human rights to thousands of Canberrans, and much more. This comments on was all on top of moving premises and helping forge the new Commission. Congratulations on your fine and important work.

I look forward to another year of growth and strengthening of the Commission as we continue to harmonise our work, particularly our systemic advocacy, and enhance our systems to better protect the ACT community's human rights.



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

This was my first year of work as Discrimination, Health Services, and Disability and Community Services Commissioner after the roles were consolidated into one position within the Commission. While this gave me very broad responsibilities it also allowed my team, and the Commission, to take a strategic approach to themes and trends we see across these jurisdictions and work to improve outcomes for the ACT community.

We work at both an individual and systemic level to identify and address concerns raised through contact with the community including complaints, training and education, participation in community events and forums and direct engagement with key stakeholders.

The diversity of work we undertake is reflected in the diversity of the role. We work to improve health services and systems in the ACT through direct engagement with consumers, advocates and providers. We engage directly with consumers, providers and other regulators to oversight and improve the provision of disability services in the ACT. This work is done in an environment in which the NDIS is changing the way services are provided and people with a disability and their families and carers are navigating a new and currently challenging landscape of choice and autonomy.

In the area of community services, we handle complaints in complex areas, such as child protection, youth justice, and more broadly, the provision of services to young people and services to older people and carers. Our own-motion investigations in this area include reviewing operations in youth justice facilities, reviewing the use of restrictive practices in schools and residential care settings, adjustments to housing to accommodate older people and people with a disability, among others. This work is informed by extensive community engagement and by our participation in consultative and oversight processes, and a focus on achieving systemic as well as individual outcomes.

Over 2016–17 we welcomed amendments to the *Discrimination Act 1991* that strengthened protections for the ACT community, and, in particular, meant we became the first jurisdiction to protect people from discrimination on the basis of accommodation status, immigration status and subjection to domestic or family violence. Protection from vilification on the basis of disability, religion and intersex status were also enacted.

The Commission has been working with community groups to provide education and training to ensure vulnerable community members are aware of these new protections and to ensure service providers, employers and other key groups are aware of these extended grounds of protection.

Handling individual complaints made by community members is a significant part of the work my team undertakes. Over the year we have consolidated and streamlined complaints processes with a greater focus on offering conciliation as a means of bringing parties together to try to resolve their concerns. We are focused on ensuring we provide an accessible, flexible and efficient complaint handling process to ensure matters are handled in a fair, timely and effective manner. The case studies throughout this report give a flavour of the complexity and diversity of matters handled by the complaint team and the outcomes achievable through the conciliation process.

I look forward to the opportunity to consolidate the position in 2017-18 and build on the learnings and achievements from this first year to continue to promote a safe, inclusive and diverse ACT community.



Karen Toohey

## From the Public Advocate and Children and Young People Commissioner

In my first full year as Public Advocate and Children and Young People Commissioner my focus has been on consolidating the way in which these two roles can best work together to deliver improved outcomes for children, young people and adults experiencing vulnerability.

Having worked across non-government, government and statutory agencies I am regularly reminded that change is an incremental process that requires dedication and leadership at multiple levels. With this in mind, I realise that where I start is less important than ensuring my team's work has currency, applies contemporary thinking, is solidly evidence-based and, as far as possible, influences and shapes the future as much as the present.

To support this, I have brought a more strategic focus to our work. This has included drawing on the concerns and issues raised by people themselves, or those supporting them, together with information we receive from services as part of their compliance obligations, to identify systemic issues. We then analyse the issues and work collaboratively with relevant agencies to effect positive, systemic change.

Our work operates in a dynamic reform environment. Reforms under way include changes to the care and protection system arising from the *Step Up for Our Kids* initiative, and in the education system from the *Schools for All* program. The advent of the National Disability Insurance Scheme has been significant for our work with people with disability, as is the proposal to introduce a positive behaviour support approach to reduce and eliminate restrictive practice use. In the mental health and forensic mental health space, the new *Mental Health Act 2015* has seen changes to policy and practice requiring ongoing vigilance to ensure that consumers are empowered and their rights are upheld.

The dynamic nature of reform offers a unique opportunity to influence the evolution of these systems. 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.

Promoting and supporting consumer voices in our activities has been a strong focus the past year, and is one that will continue. In particular, we actively worked to create opportunities for children and young people to tell us about the things that are important to them. We supported a stronger focus on allowing the views and wishes of people with a disability or mental illness to be heard, including by identifying where support for decision-making can maintain and maximise their individual autonomy.

I would like to acknowledge and commend my team for their commitment to facilitating improved outcomes for people experiencing vulnerability. Despite the team being small, these dedicated individuals produce a significant volume of work that is consistently of high quality and that gets to the heart of issues affecting those whose rights and interests we seek to uphold.

I look forward to the opportunity to capitalise on our achievements over the past year in 2017-18. I am proud of all our accomplishments and appreciate the opportunity to continue to promote and pursue effective and sustainable outcomes that improve the lives of ACT children, young people and adults.



Jodie Griffiths-Cook

## From the Victims of Crime Commissioner

In 2016, the ACT Government committed to developing a Charter of Rights for victims of crime. This commitment coincided with the re-location of my office, including Victim Support ACT, to sit within the restructured ACT Human Rights Commission

The co-location of my office with the Human Rights Commission and the commitment by the Government to develop a Charter of Rights presents a real opportunity to construct a meaningful Charter that recognises the human rights of victims and ensures those rights are consistently delivered.

This is an opportune time to reconsider the role and rights of victims of crime in the criminal justice system. The Royal Commission's report on criminal justice and the 2016 Victorian Law Reform Commission's report on the role of victims of crime in the criminal trial process highlight the need for greater recognition of victims' rights.

The Victorian Law Reform Commission states that the victim's role needs to be characterised in a new way. Changes to the role made by the cumulative effect of the reforms have not been driven by a vision of what it should be; nor is there an adequate description of what it has become. The ambiguity this has created causes inconsistencies in how victims are perceived, how they see themselves, their expectations and how they are treated. The Commission proposed that the role of the victim as a participant in criminal proceedings be legislatively and operationally recognised.

Providing victims with a more central role in the criminal justice system engages section 21(1) of the ACT Human Rights Act 2004, which provides for the right to a fair trial. Everyone has a right to have criminal charges and rights and obligations recognised by law, decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair trial has been found in other human rights jurisdictions to include a 'triangulation of interests', which includes those of the accused, as well as the victim and his or her family, and the public.

A Charter of Rights for victims of crime in the ACT cannot be tokenistic. We must acknowledge that people who have been harmed by others have a legitimate right to participate in criminal proceedings, including decision making by authorities. There should be a positive obligation placed upon authorities to deliver any new right, including a right to participate in decisions and processes. There must be an oversight mechanism to ensure the rights are delivered consistently and there must be some accountability when a right is not delivered.

My office has been engaged in extensive consultations with victims of crime about their expectations of what will constitute a Charter of Rights. We will release a report on those consultations next year. In that report are the voices of people who have experienced our criminal justice system through no fault of their own. What they say is important. The challenge for the Government is to listen to those voices in a meaningful way by recognising the rights of victims and ensuring those rights will be consistently delivered.



John Hinchey



## SECTION B: PERFORMANCE

### B.1 Organisational Overview

The ACT Human Rights Commission promotes the human rights and welfare of all people living in the ACT.

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 2004* (HR Act).

In the previous reporting period the *Protection of Rights (Services) Amendment Act 2016* was passed and came into effect on 1 April 2016 merging the Public Advocate and Victims of Crime Commissioner into the Commission. This annual report is the first full year of operation of the expanded Commission.

Four people carry out the Commission's eight major functions:

- President and Human Rights Commissioner—Dr Helen Watchirs
- Public Advocate—Ms Jodie Griffiths-Cook
- Children and Young People Commissioner—Ms Jodie Griffiths-Cook
- Disability and Community Services Commissioner—Ms Karen Toohey
- Discrimination Commissioner—Ms Karen Toohey
- Health Services Commissioner—Ms Karen Toohey
- Victims of Crime Commissioner—Mr John Hinchey

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

- independently handle complaints about discrimination, health, disability and community services;
- promote understanding of human rights in the ACT;
- 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; and
- deliver services to victims of crime and advocate for their interests.

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

#### President and Human Rights Commissioner

The President is responsible for the Commission's governance, finance, resources and administration as well as:

- reporting on the Commission's behalf;
- collecting information about the operation of relevant legislation;
- publishing information about the Commission's operation; and
- promoting community discussion about relevant legislation and the Commission's operation.

The Human Rights Commissioner's functions include:

- providing community education and information about human rights;
- reviewing the effect of ACT laws on human rights; and
- advising the Minister and others on the operation of the HR Act.

The Commissioner may also intervene, with the leave of the court, in any legal proceedings related to the HR Act's application. However, the Commissioner does not have jurisdiction to handle individual cases of human rights breaches.

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

The Discrimination, Health Services, Disability and Community Services Commissioner independently handles complaints about:

- unlawful discrimination, sexual harassment and vilification;
- health services;
- disability services;
- services for older people; and
- services for children and young people.

Unlawful discrimination includes many protected attributes and includes but is not limited to: disability, race, sex, age and gender identity.

The Commissioner also does strategic policy and systemic work. This work is done by a number of different processes, including by way of Commission-Initiated Considerations (CICs).

## Public Advocate and Children and Young People Commissioner

The Public Advocate and Children and Young People Commissioner:

- provides individual advocacy for children, young people and adults whose condition or situation makes them potentially vulnerable to abuse, exploitation or neglect;
- monitors and fosters the provision of services for persons experiencing vulnerability;
- provides oversight of systems that support and respond to the needs of persons experiencing vulnerability;
- engages with and listens to children and young people to ensure their voices are heard on issues that affect them; and
- improves services for all children and young people.

The Public Advocate and Children and Young People Commissioner has a staffing complement of six full-time equivalent staff in addition to the Commissioner herself.

## Victims of Crime Commissioner

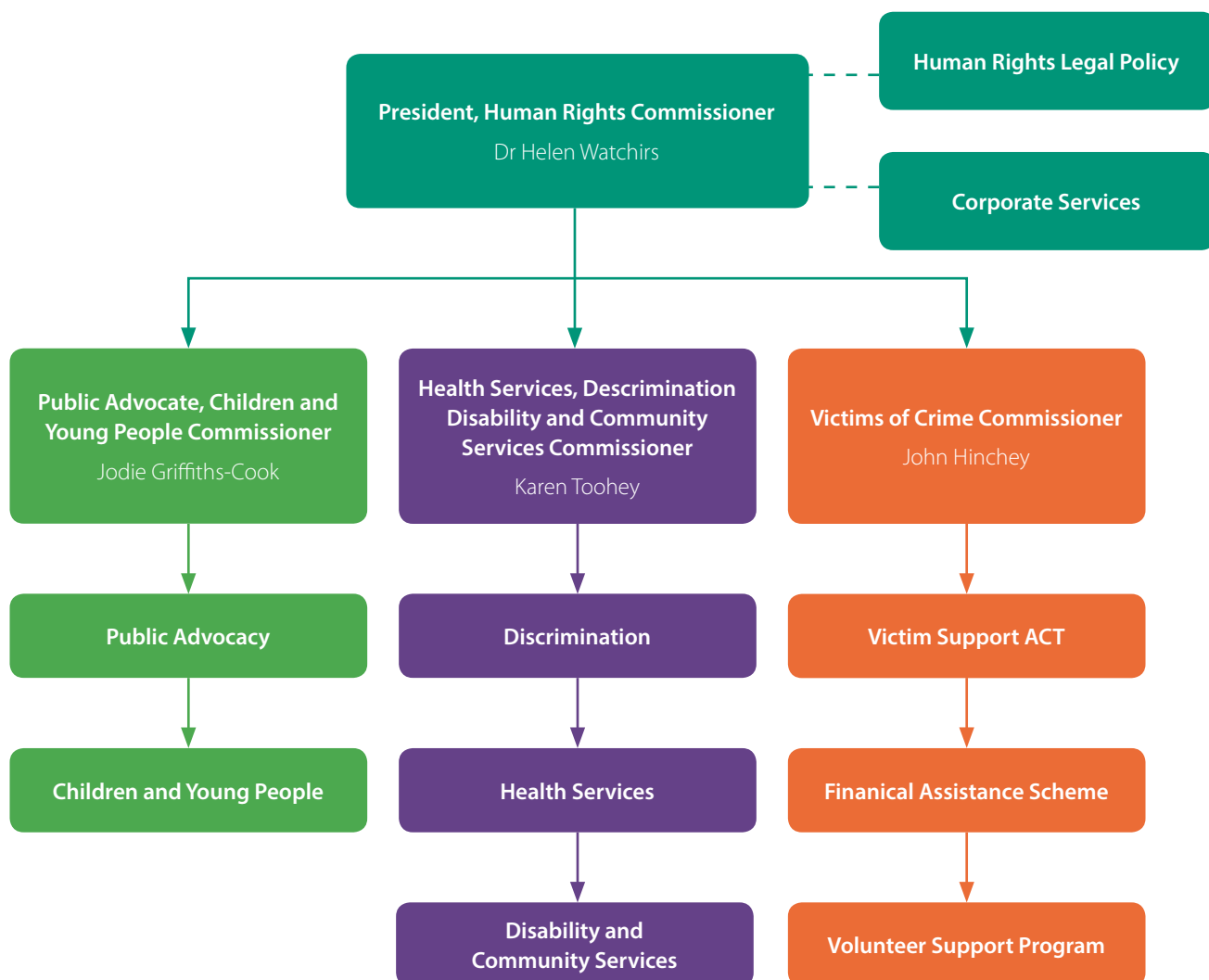
The Victims of Crime Commissioner functions are set out in the *Victims of Crime Act 1994*, the *Victims of Crime (Financial Assistance) Act 2016* and the *Victims of Crime Regulation 2000*.

The Victims of Crime Commissioner:

- advocates for the interests of victims of crime;
- responds to concerns related to victims' experiences of the criminal justice system;
- ensures the provision of efficient and effective services for victims; and
- provides oversight of services provided by Victim Support ACT (VSACT) and the Victims of Crime Financial Assistance Scheme (FAS).

Other ACT laws give the Commission functions in addition to the HR Act.

## ACT Human Rights Commission Organisational Chart



## Our Strategic Plan 2017-2020

The Commissioners and staff worked together to develop a Strategic Plan 2017-2020 in April-May 2017 with the assistance of consultant Think Place. The Plan will guide operations across the next three years and underpin the development of a Commission-wide communications strategy.

## Operations Protocol

A draft Operations Protocol under HRC Act s18c is being developed to guide the Commissioners to fulfil their statutory roles and provide quality services to the community over the coming three years. The protocol will be refined as the expanded Commission discovers further synergies and ways to maximise collaboration within its new structure. It will be available on the Commission's website in the next reporting period.

## Client Services Charter 2016-19

In December 2016 the Commission adopted its Client Services Charter 2016-19, a requirement of s18B of the HRC Act.

The Commission consulted with the ACT community using the ACT Government's *Have Your Say* website over eight weeks in August-October 2016 to develop the Charter. The Charter is based on the Commission's commitment to human rights and belief that all people deserve to be treated with respect and dignity. It explains what the Commission does, what clients can expect from it, how it provides services and how to offer feedback to help improve its services. See:

<http://hrc.act.gov.au/about-act-human-rights-commission/client-services-charter-2016-2019>



## ACT Human Rights Commission STRATEGIC PLAN 2017-2020

### OUR VISION

An inclusive community that respects and realises everyone's rights

### OUR MISSION

We strive to achieve our vision by:

- leading positive systemic change
- engaging and educating the community
- delivering accessible services that empower and support people
- providing effective oversight

### OUR

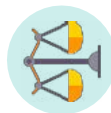
### VALUES



Respect



Collaboration



Integrity



Innovation



Accessibility



Independence

### OUR PRIORITIES

#### 1 Make human rights relevant to everyone

- help the community understand and exercise their rights and fulfil their obligations
- raise awareness about what we do, our impact and how to access help and support

#### 2 Lead systemic change to address vulnerability

- reform law, policies and practices that impact rights
- effective and independent oversight that promotes accountability
- proactive monitoring to improve systems and address concerns

#### 3 Enhance services and service delivery

- ensure our service provision recognises and realises everyone's rights
- deliver accessible and responsive client-centred services
- timely and effective complaint handling

#### 4 Increase community engagement

- take a strategic approach to engagement activities and event participation
- provide the community with opportunities to engage and express their views to develop solutions together

### DEVELOPING OUR CAPABILITIES

#### SHARED RESPONSIBILITY

- clarify our roles and the value we deliver
- work together with stakeholders to achieve our vision

#### AGILE STAFF

- a diverse and capable workforce
- value commitment and professionalism
- open and positive attitudes
- career growth opportunities

#### CLEAR OPERATING MODEL

- integrate operations
- increase collaboration and information sharing
- clearer lines of communication and accountability

#### IMPROVING SYSTEMS PROCESSES

- evaluate and enhance our systems
- efficient reporting, information and case management systems
- digitise customer service and engagement

## Working With Government

Section 16 of the HRC Act states that: *“the Commission is not subject to the direction of anyone in relation to the exercise of a function under [the HRC Act] or a related Act...”*

However, s17 provides for the minister to: *“direct the Commission to inquire into and report to the Minister in relation to a matter that can be complained about under the HRC Act.”*

### Draft Governance and Corporate Support Protocol

The Commission relies on the Justice and Community Safety Directorate (JACS) to provide assistance with some corporate functions such as financial accounting, human resources, and information management and technology support.

A draft Governance and Corporate Support Protocol under HRC Act s18A was developed by the President in consultation with the Commissioners to articulate respective roles and responsibilities as an independent statutory authority and a draft was provided to the JACS Director-General. The protocol will be finalised with JACS in the next reporting period.

## Working With The Community

Under the new Commission structure, the Commissioners worked to consolidate and expand their relationships with stakeholders and build new partnerships across the ACT and wider community in 2016–17.

The Commission has a broad range of clients and stakeholders within the ACT. Client groups include children and young people, older people, carers, people with a disability or mental health condition, health service clients, the multicultural community, the LGBTIQ community, detainees, and victims of crime. Significant stakeholders include: the ACT Law Society; ACT Bar Association; Legal Aid ACT; Community Law; Women's Legal Centre; and Aboriginal Legal Services (ACT/NSW).

Throughout the year the Commission provided extensive individual advocacy services to people in contact with ACT mental health services, victims of crime, prison, youth justice, and child and youth protection services. Systemic advocacy was also provided to encourage service and practice improvement in the criminal justice system, child and youth protection system, mental health system, health services and disability sector.

Victim Support ACT (VSACT) has a wide range of partners including the AFP, Director of Public Prosecutions, ACT courts, family and domestic violence, health care, mental health, child and youth support services. The service actively engages with ACT consumer, client and advocacy groups such as Advocacy for Inclusion, and the ACT Health Care Consumers Association.

## Working With the Human Rights Sector

The President and Human Rights Commissioner, Dr Helen Watchirs, continued to chair the Australian Council of Human Rights Authorities in 2016–17 at meetings in Canberra in October 2016 and Sydney in April 2017. The Discrimination Commissioner, Karen Toohey, is also a Council member.

The President met with the UN Special Rapporteur on Violence Against Women, Ms Dubravka Šimonovic, in February 2017 and Human Rights Commissioner for Afghanistan, Dr Sima Samar, in May 2017.

The President led a delegation, including the ACT Aboriginal and Torres Strait Islander Elected Body, that met with the UN Special Rapporteur on the Rights of Indigenous Peoples Ms Tauli-Corpuz on 27 March 2017. Ms Tauli-Corpuz was particularly interested in discussing s27(2) of the HR Act, which is drawn from the UN Declaration on the Rights of Indigenous People (UNDRIP), and ACT as the only Australian jurisdiction to have an Elected Body for Aboriginal and Torres Strait Islander people.

The Disability and Community Services Commissioner is a member of the Australian and New Zealand Disability Services Commissioners. The Health Services Commissioner is a member of the Australasian Health Complaints Commissioners.

The Public Advocate and Children and Young People Commissioner is a member of the Australian Children's Commissioners and Guardians and the Australian Guardianship and Administration Council.

The Commissioners hold appointments on many other ACT and national committees and boards where they work to promote understanding of, and compliance with, human rights and discrimination law.

## Working With the Aboriginal and Torres Strait Islander Community

### Innovate Reconciliation Action Plan 2015-18

The Commission promotes reconciliation as part of its core work of improving the quality of and access to services, as well as protecting and promoting Aboriginal and Torres Strait Islander peoples' human rights.

In 2015 the Commission adopted its third Innovate Reconciliation Action Plan (RAP). The President is the Commission RAP Champion and there is an internal RAP Committee that oversees the plan's implementation. A particular focus during this period was Aboriginal and Torres Strait Islander employment at the Commission.

The Commission RAP 2015-18 can be viewed here: <http://hrc.act.gov.au/educationpublications/publications/reconciliation-action-plan-2015-2018>

### Respecting Culture: Aboriginal and Torres Strait Islander Cultural Rights in the HR Act Project

During 2016–17, the Commission launched a 'Respecting Culture: Aboriginal and Torres Strait Islander Cultural Rights in the Human Rights Act Project' to promote HR Act s27(2).

Through the Commission's joint advocacy with the ACT Aboriginal and Torres Strait Islander Elected Body, the HR Act was amended in 2016 to give explicit local recognition to Aboriginal and Torres Strait Islander people's distinct cultural rights, and their right to maintain, control and protect them. The wording of section 27(2) was drawn from the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) articles 25 and 31. Section s27(2) requires ACT public authorities to respect Aboriginal and Torres Strait Islander people's continuing culture, heritage and kinship ties, and to value Traditional Owners' relationships with land, waters and other resources in the ACT.

The Respecting Culture project on 13 September 2016 launched a fact sheet on s27(2). The project was designed to build capacity within the Aboriginal and Torres Strait Islander community to exercise their cultural rights and assist the ACT public authorities and wider community to understand and respect the right.

Led by Ms Natalie Brown from the Human Rights Legal Policy team, broad consultations have been held with Aboriginal and Torres Strait Islander stakeholders, spreading word about s27(2) rights and hearing lived experiences. From these rich conversations the project is developing information and training supports for Aboriginal and Torres Strait Islander people to advocate respect for their cultural rights, and for public authorities to understand their obligations. Training sessions will be rolled out to the Aboriginal and Torres Strait Island community and within government in 2017-18. Other materials and communications tools, including a dedicated webpage and social media are in planning.

### Work with the Aboriginal and Torres Strait Islander Elected Body

The Commission worked in close cooperation with the Aboriginal and Torres Strait Islander Elected Body in 2016–17. It reported to the Elected Body on its activities and gave evidence at Elected Body estimate-type hearings on 6 December 2016 and 13 April 2017.

On 13 September 2016, the Commission, in partnership with the Elected Body, hosted a film screening of *Putuparri and the Rainmakers* at the National Film and Sound Archive to commemorate the ninth anniversary of the UNDRIP. The film is a story of transformation and restoration through respect, recognition and connection with cultural rights and practices. The event was attended by around 150 people including Minister Chris Bourke and Elected Body Chair Ross Fowler and member Maurice Walker.



Respecting Culture Project Coordinator Natalie Brown (centre) with students at Campbell High Indigenous Education Centre.



## Advocacy for Gladue-type Reports in Care and Protection matters

Gladue-type reports, named after Canadian court-ordered pre-sentencing and bail hearing reports, seek to address the unconscious bias and systemic discrimination Indigenous people experience when dealing with non-Indigenous authorities. They provide authorities with detailed information about individuals, their culture and background including issues such as intergenerational trauma and other disadvantage.

On 27 March 2016 the Commission wrote to the Community Services Directorate (CSD) Director-General inviting him to consider using Gladue reports in care and protection matters involving Aboriginal and Torres Strait Islander families.

The Commission's proposal followed the ACT Attorney-General's 6 February 2017 announcement that Gladue reports would be adopted in sentencing for criminal matters involving Aboriginal and Torres Strait Islander defendants.

The Commission believes the reports would help CSD staff meet their obligations under s40B of the HR Act that requires them to act and make decisions consistent with human rights, including Aboriginal and Torres Strait Islanders cultural rights under s27(2) of the ACT. Gladue reports may be valuable at different stages in the care and protection system including for ACT Children's Court decisions.

Although this proposal was not endorsed by CSD, the Commission will continue to advocate for its consideration as a strategy to tackle the overrepresentation of Aboriginal and Torres Strait Islander children and young people accessing care and protection services. The Minister has announced an independent two-year review of Aboriginal and Torres Strait Islander children and young people in the ACT care and protection system to which the Commission will make further submissions. The Commission's 2015 *Passing the Message Stick Report* will be a relevant resource for the review.

## Cultural Competency in Care and Protection

In August 2016 the Public Advocate and Children and Young People Commissioner began working alongside Aboriginal people from key agencies supporting children and young people to improve the cultural competency of non-government service providers in the care and protection system. The project emerged from the Commissioner's discussions with Aboriginal people where concerns about the cultural competency of the care and protection system had been raised.

The Commissioner facilitated regular meetings to promote and progress improvements in the cultural competency and sensitivity of organisations that provide support and services to children, young people and families who have come into contact with the ACT care and protection system. Child and Youth Protection Services (CYPs), the ACT Office for Aboriginal and Torres Strait Islander Affairs and the Aboriginal and Torres Strait Islander Elected Body (ATSIEB) were invited to participate in this work.

The Public Advocate and Children and Young People Commissioner also consulted Aboriginal young people with a lived experience of the care system to learn whether they felt their cultural connections were supported during their care experience. The Commissioner subsequently facilitated a workshop at the Child Aware Approaches conference in Brisbane where the Aboriginal young people's views informed discussion by workshop participants. The Commissioner continues to engage with the young people to explore ways to empower them to tell their story in local forums.

## NAIDOC Family Day 2016

The Commission joined in the NAIDOC Family Day celebrations on 3 July 2016 with a stall at Yarramundi Reach and at the Wreck Bay NAIDOC Carnival on 4 July 2016.

The Children and Young People Commissioner and Victims of Crime Commissioner also attended NAIDOC Family Day at the Alexander Maconochie Centre (AMC) on 11 July 2016.

## Reconciliation Week 2017

In Reconciliation Week Commissioners and staff demonstrated their commitment to reconciliation by joining in a cold and windy national Sorry Day Bridge Walk on 26 May 2017 across Canberra's Commonwealth Bridge. Commission President Helen Watchirs was interviewed by ABC TV about the importance of remembering: Steven Freeman, an Aboriginal man who tragically died at the AMC in 2016; the 50th anniversary of the 1967 referendum; 25th anniversary of the High Court's *Mabo* decision; and 20th anniversary of the Australian Human Rights Commission's *Bringing Them Home Report*.

The Commission also held a successful Great Bookswap during Reconciliation Week to raise funds for the Indigenous Literacy Foundation.

## Other events

In partnership with the JACS RAP Committee the Commission held an event to raise funds for National Close the Gap Day on 16 March 2017 that included screening the documentary film *Footprints on Our Land* portraying the life and legacy of Ngunnawal Elder Aunty Agnes Shea.

The Commission President headed an ACT delegation, which included the Aboriginal and Torres Strait Islander Elected Body, that met with the UN Special Rapporteur on the Rights of Indigenous Peoples Ms Tauli-Corpuz on 27 March 2017. Ms Tauli-Corpuz was particularly interested in discussing s27(2) of the HR Act, which is drawn from the UNDRIP, and ACT as the only Australian jurisdiction to have an Elected Body for Aboriginal and Torres Strait Islander people.

### Aboriginal and Torres Strait Islander Workforce JACS Executive Champion

Throughout 2016–17 the Victims of Crime Commissioner was the JACS Directorate Aboriginal and Torres Strait Islander Workforce Executive Champion and JACS RAP Champion. In this role he supported the implementation of the JACS RAP 2016–2019, promoted the JACS Aboriginal and Torres Strait Islander Employment Action Plan (ATSIEAP), the ACT Aboriginal and Torres Strait Islander Justice Partnership and the ACT Aboriginal and Torres Strait Islander Executive Agreement.

During 2016–17 activities in the role included:

- promoting JACS ATSIEAP by encouraging business units to provide Aboriginal and Torres Strait Islander employees with support and development opportunities to ensure they were properly represented in leadership positions;
- assisting JACS to meet its RAP actions and targets;
- contributing to JACS RAP Working Group;
- attending and encouraging JACS staff to attend National Reconciliation Week, NAIDOC Week and Sorry Day events; and
- promoting awareness of dates significant to Aboriginal and Torres Strait Islander peoples.

The Victims of Crime Commissioner attended a two-day community forum in March 2017 with members of the Aboriginal and Torres Strait Islander community focused on what the community believed would make a difference to domestic and family violence in the ACT. The forum was the product of a partnership between the Domestic Violence Prevention Council and the Elected Body.

### Looking Ahead

The Commission will continue to consolidate and improve its operation, with Commissioners collaborating on the Strategic Plan's full implementation.

Bedding down an Operational Protocol in line with the Strategic Plan, and finalising a Governance and Corporate Support Protocol with JACS are corporate priorities for 2017–18.

Further enhancing the Commission's services to ensure they are easy to access and client-centred is a high priority, with a new website in the making, and a communications strategy in development.

The Commission will continue to implement its RAP with a particular focus on expanding its Aboriginal and Torres Strait staff and client numbers.

Training supports and communication tools to promote the HR Act s27(2) cultural rights to the Aboriginal and Torres Strait community and public authorities' obligations to respect them will roll out in the coming year. A new website resource will contain more educational materials on s27(2) for the community and public authorities.

As a member of the Law Reform Advisory Council (LRAC) the President will contribute to its reference on making Canberra a restorative city, with a focus on restorative justice practices in the two areas of housing and the care and protection of young people. The Commission will also advocate for implementation of recent LRAC recommendations on reform to guardianship and discrimination legislation.

Changes to the *Discrimination Act 1991* expanding the protections available to the ACT community with additional attributes and grounds for vilification were a significant achievement in 2016–17. The Commission will continue to work with key stakeholders to increase community awareness of the legislative changes.

The Discrimination, Health Services, Disability and Community Services Commissioner will finalise an investigation of ACT Government policies and protocols around the use of the confinement, seclusion and forcible medication registers, and work with ACT Health to ensure practices around seclusion and confinement give appropriate consideration to human rights.

The Commissioner will finalise a report following the Commission-initiated investigation into the prescription of methadone to detainees at the AMC following the Moss Inquiry. It is anticipated recommendations will cover assessment, dosing, monitoring following induction, managing diversion risk and throughcare.

The Commissioner will also finalise a report following the Commission-initiated investigation into the Bimberi Youth Justice Centre. The report will address procedures and operations related to the safety and security of young people in Bimberi, staff training, and responses to reportable incidents.



The Commissioner will continue working on implementing a National Code of Conduct for unregistered health care workers with ACT Health, Australian Health Complaints Commissioners and the Victorian Department of Health and Human Services.

The Commissioner will continue to promote the Commission's *Everyone Can Play* guidelines by working with interested sporting clubs to encourage them to be more inclusive by providing practical advice, information about legal rights and obligations and addressing myths about gender diversity.

The Public Advocate will review court processes for family violence and personal violence matters in 2017-18 to consider how these processes can better support adults with a mental illness or disability, and whether additional advocacy support is required for children and young people involved in these proceedings.

The Public Advocate will consider a systemic review of the adequacy of supports for mental health consumers with serious suicidal ideation and those experiencing frequent readmissions.

An internal review of the Public Advocate's statutory oversight processes and protocols, particularly of Child and Youth Protection Services and ACT Together, will continue.

A Children and Young People Commissioner project promoting improved pathways and supports for young people transitioning out of detention was a priority focus area that will continue in 2017-18. Another project identifying what is useful for children and young people in their response to change and major life transitions will also continue.

From 1 July 2017, the Victims of Crime Commissioner will become the decision maker for all new applications for the former Financial Assistance Scheme (FAS), meaning clients will no longer need to apply for financial assistance through the ACT Magistrates Court. The Commission will continue to focus on raising awareness of the FAS in 2017-18, especially among more vulnerable members of the ACT community.

The Victims of Crime Commissioner will continue to work on resolving concerns and enhancing the rights of victims of crime. The Commissioner's ongoing work leading family and domestic violence reforms will continue, particularly in his capacity as Chair of the ACT Family Violence Intervention Program and as the ACT Domestic Violence Project Coordinator.



Human Rights Commission staff Christmas party, December 2016.



## B.2 Performance

# 2016–17 highlights

**75%** say complaints process fair, accessible and understandable



**1,843**

victims of crime provided with assistance



**2,207**

people brought to public advocate's attention

**COMPLAINTS**  
**507**  
**1,207**  
HUMAN RIGHTS COMMISSION ENQUIRIES

**8**

**NEW COMMISSION-INITIATED -CONSIDERATIONS**

+

**30**

**cabinet submission comments**

**15** legislative & policy proposals

# RAISING HUMAN RIGHTS AWARENESS AND IMPACT

## Strategic Priority 1: make human rights relevant to everyone

### Delivering Effective Services

Client satisfaction with the Human Rights Commission complaints casework services was on target in 2016–17. Of the 59 evaluation forms completed by complainants and respondents, 75% said the Commission's complaints process was fair, accessible and understandable. The percentage of complaints concluded within the Commission's standards (70%) was slightly below target (75%).

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

In 2016–17, the Discrimination, Health Services, Disability and Community Services Commissioner received 1,207 enquiries and received 507 complaints. The overwhelming majority of complaints were about health services (387).

See more detail on the Commission's handling of the various types and areas of complaints on page 35.

**Table 1: All Complaints in 2016–17**

Complaint type	Enquiries	Complaints	Commission-initiated- Investigations
Children and Young People	63	17	1
Disability	52	18	0
Discrimination	294	78	0
Health Services	480	387 (incl. 194 AHPRA notifications)	7
Human Rights	115		
Out of Jurisdiction	189		
Older People	14	1	0
<b>Total</b>	<b>1207</b>	<b>507</b>	<b>8</b>

### High Satisfaction With Complaint Handling

The Commission measures satisfaction with its services by asking parties to complete an evaluation form when complaints are closed. The high level of client satisfaction with the Commission's complaint casework services in 2016–17 is noted above.

Comments from parties to complaints related to the benefits of bringing the complaint to the Commission. Comments included:

- 'A good impression of your genuineness and a sense of comfort because you cared';
- 'Good and clear guidance through a process that otherwise I didn't understand';
- 'Speedy resolution of complaint';
- 'I felt very happy that there was a fair outcome for myself and my part-time colleagues. It was an affirming process;'
- 'Ease of access to the relevant officers and high level of professionalism shown';
- 'My complaint fairly heard and investigated';
- 'Your professional assistance, friendly and approachable staff helped me immensely';
- 'Achieving a satisfactory outcome that would also benefit others in the community';
- 'Responsibility, safe practice and service'; and
- 'Improvement of facility services'.

## Human Rights Training

As part of its commitment to leading and embedding systemic change within the ACT public sector, Commission staff delivered training on human rights and discrimination to a wide range of people and groups in the ACT during the year. The training was both generic and tailored to specific needs of ACT Government employees. See section N for detail.

## Public Advocate and Children and Young People Commissioner

The Public Advocate and Children and Young People Commissioner client satisfaction was on target, with 74% of survey respondents recording a 'high' or 'very high' level of satisfaction with its services. Using online surveys has significantly increased the number of responses and the additional anonymity has allowed people to provide clearer feedback about the services provided.

During the reporting period, 2,207 people were brought to the Public Advocate's attention. Many were identified through documentation that by law must be provided as part of the Advocate's statutory oversight and compliance monitoring of child protection, mental health and forensic mental health systems and service providers. Others were referred due to their vulnerability or made direct requests for individual advocacy.

Direct advocacy was provided for 773 people, well above the projected target of 500. This target will be changed to a proportionate figure in 2017-18 given that the Public Advocate has no control over the number of individuals brought to the attention of the office.

Documentation reviews were done for 84% of people brought to the Public Advocate's attention, exceeding the target by more than 33%. This performance indicator will be revised up to 75% in 2017-18 to reflect the additional position in the area of mental health advocacy and the creation of a new position for children and young people.

The Children and Young People Commissioner regularly engaged with community members and professionals that have ideas for how ACT laws, policies, services and programs could be improved for children and young people.

In 2016-17 the Commissioner received 185 approaches by phone or email. People with human rights issues and discrimination or service complaints were referred to the appropriate officers within the Commission for assistance.

The Public Advocate and Children and Young People Commissioner collaborated with agencies to foster service improvement, consider policy reform, facilitate information sharing and promote practice improvements.

A particular focus in 2016-2017 was fostering cultural competency among those working in the care and protection system in the ACT. Since November 2016 the Public Advocate and Children and Young People Commissioner have facilitated an action forum to promote and progress improvements in the cultural competency and sensitivity of organisations supporting and servicing Aboriginal and Torres Strait Islander children, young people and families in contact with the ACT care and protection system. The strategic priorities are to:

- engage the Aboriginal and Torres Strait Islander community to ensure their views direct the change agenda;
- improve the intensive intervention and out-of-home care services' understanding and support for the cultural needs of Aboriginal and Torres Strait Islander children and young people and their families; and
- collaborate to influence and support preventative strategies to reduce the number of Aboriginal and Torres Strait Islander children and young people in care.

In 2016-17 the Children and Young People Commissioner team provided information and education on human rights, particularly children's rights. This included:

- Lake Tuggeranong College legal studies students visited the Commission and participated in a case study workshop;
- an interactive session with Miles Franklin School year 7, as part of a 'sharing the planet' unit of inquiry; and
- three interactive sessions on children's rights with Gold Creek Primary School year 2 students.



## Victims of Crime Commissioner

In total the Victims of Crime Commissioner or VSACT provided 1,843 victims of crime with assistance in 2016–17. This included 1,190 new client referrals, 413 existing clients and 237 clients that were provided with assistance more than once.

The percentage of client referrals actioned in less than five working days was 89%, slightly below target (95%).

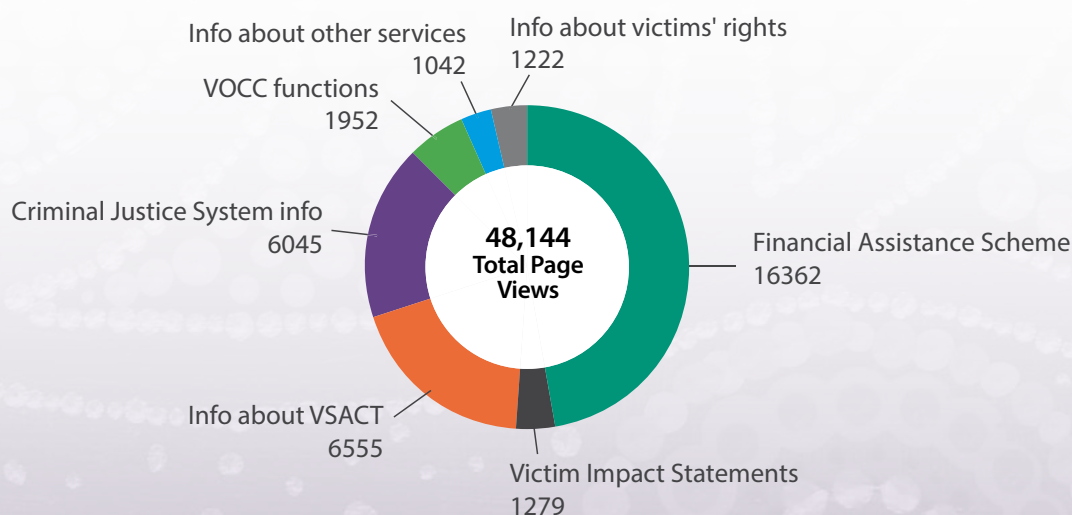
A number of factors influenced total client numbers for VSACT for 2016–2017. The number of people referred to, or provided with, services increased overall, but there was a decrease in the number of clients provided with case management services. This was attributed to a simplification of the FAS allowing clients to independently access financial assistance without needing a case manager. VSACT also updated its website and engaged in significant community awareness-raising to ensure people could independently access FAS information.

**Table 2: Victim Support ACT Clients in 2016–17**

Type of Client	2014-2015	2015-2016	2016-2017
<b>Clients Provided With Case Management Services</b>			
New clients registered for case management	446	374	327
Existing clients with new episodes of victimisation	41	51	24
Existing clients referred more than once	157	228	237
Existing registered clients ongoing service	612	508	413
<b>Clients Provided with Information and/or Referred to Other Services</b>			
Advice or information only	59	79	239
Client declined service	103	160	151
One-off activity or referred to alternative service	111	160	240
Ineligible	29	45	19
Unable to be contacted	108	138	193
<b>Total</b>	<b>1666</b>	<b>1743</b>	<b>1843</b>

Figure 1 shows a total of 48,144 page views of VSACT's website in 2016–17. Viewers accessed a range of information, including about the FAS, the criminal justice system, victims' rights, VSACT services, links to other services and the Victims of Crime Commissioner's functions.

**Figure 1: VSACT Website Views 2016–17**



# ADVOCATING FOR CHANGE

## Strategic Priority 2: lead systemic change to address vulnerability

### Oversight of Places of Detention

The Commission convenes regular oversight agency meetings about the ACT's detention facilities' operations, to share information and discuss concerns without detaining authorities present. Other oversight agency representatives, including the ACT Ombudsman, Official Visitors, Prisoners Aid and Winnunga Nimmityjah Aboriginal Health Service also attend.

The Commission also attends regular meetings with the Alexander Maconochie Centre (AMC) General Manager convened by ACT Corrective Services.

The Commission maintained a close monitoring role for the Bimberi Youth Justice Centre throughout 2016–17. Oversight functions involved reviews of segregation, strip search and use of force registers.

Individual Commissioners meet regularly with relevant government and community stakeholders.

### Human Rights and Policy Submissions

The Commission provided formal comments on more than 30 draft Cabinet submissions following consideration of all draft Cabinet submissions in 2016–17. Due to the Cabinet-in-Confidence status of documents further information on these comments cannot be revealed.

The Commission also provided human rights and policy advice to government directorates and agencies on a range of legislative and policy proposals.

Major 2016–17 submissions included:

- *Independent inquiry into the treatment in custody of Mr Steven Freeman (Moss inquiry)*. The Commission raised human rights concerns about overcrowding, overrepresentation of Aboriginal and Torres Strait Islander detainees in the AMC, a lack of structured days for detainees and mixing remanded and sentenced detainees. This highlighted the ACT Government's lack of progress in response to the ACT Supreme Court's first "declaration of incompatibility" under the *Human Rights Act* regarding ACT bail laws, and the need for an independent inspectorate to monitor conditions in ACT places of detention. The independent inspectorate was first recommended by the Commission in 2007 in its Human Rights Audit of the Belconnen Remand Centre.
- *Joint Standing Committee on the National Disability Insurance Scheme*. The Commission made seven recommendations centred on enhancing the NDIS's accessibility to people with psychosocial disability in its submission.
- *Parliamentary inquiry into a better family law system to support and protect those affected by family violence*. The submission made six recommendations on: prohibiting cross-examination of victims by self-represented litigants; increasing and improving funding, support and training; and ensuring children and young people's interests were considered in family court matters, including by providing greater scope for children and young people to be heard directly.
- *JACS' Issues Paper: Information Sharing to Improve the Response to Family Violence in the ACT*. The submission analysed the human rights implications of JACS' proposals and recommended guiding principles for reform, including that legislation should empower victims of family violence to make decisions in relation to their own safety, welfare and wellbeing; to establish appropriate legislative safeguards to store, manage and dispose information; and for effective oversight/complaint mechanisms to ensure compliance with information sharing provisions and remedies for breaches of privacy.
- Australian Law Reform Commission *'Protecting the Rights of Older Australians from Abuse'* inquiry. The submission noted its support for a national plan to respond to the serious issue of elder abuse, and commented on ALRC proposals on investigation and referral powers, reportable conduct, and criminal justice responses to elder abuse. The submission highlighted potential implications of the Australian Government's proposed ratification of the Optional Protocol to the Convention Against Torture (OPCAT) in relation to elder abuse in aged care facilities.
- Domestic Adoptions Taskforce *Review of the domestic adoption process in the ACT*. The submission suggested improvements the domestic adoptions pathway, most notably the importance of ensuring children and young people's views are taken into account and that reforms are child-focused.



## Human Rights Advice to MLAs

The new Parliamentary Agreement for the Ninth Assembly of the ACT, signed in October 2016, enables all Members of the Legislative Assembly (MLA) to seek independent formal advice from the Commission, including human rights assessments of non-executive bills, without requiring permission from, or notification to, the Attorney-General.

The Commission welcomed this agreement and, to ensure transparency, adopted a policy that all formal written advice to MLAs would be published on the Commission's website.

In line with the agreement, on 25 May 2017 the Commission provided formal written advice to Shadow Attorney-General Jeremy Hanson MLA on a human rights assessment of an exposure draft of the *Crimes (Revenge Porn) Amendment Bill 2017*, a private members bill developed by the Canberra Liberals.

On 8 June 2017 the Commission provided formal written advice to Caroline Le Couteur MLA on a human rights assessment of the ACT Greens' *Crimes (Invasion of Privacy) Amendment Bill 2017*.



Canberra's 2016 Spring Fair. L-R: Commissioner Karen Toohey; Commission Director of Legal and Policy Belinda Barnard; ACT Aids Action Council staffer Suzanne Eastwood.

## Oversight and Minimising Restrictive Practices

In this period the three Commissioners, Human Rights Commissioner, Discrimination, Health Services, Disability and Community Services Commissioner, Public Advocate and Children and Young People Commissioner, participated in an ACT Government Restrictive Practices Oversight Steering Group, and worked to develop principles to reduce and eliminate restrictive practices in the ACT.

The group was established in line with a recommendation in the *Schools for All Report* that "the ACT Government implement a whole of government approach and develop a framework to regulate the use and independent oversight of restrictive practices in all ACT schools, and other relevant settings."<sup>1</sup>

In March 2017 the Commission provided detailed submissions to a consultation on creating an ACT Office of the Senior Practitioner. The Commission welcomes the progress made during the year on minimising and eliminating the use of restrictive practices in the ACT.

<sup>1</sup> Professor Anthony Shaddock, Dr Sue Packer and Alasdair Roy: *Schools for All Children and Young People: Report of the Expert Panel on Students with Complex needs and Challenging Behaviours*, November 2015, p25



## Law Reform Advisory Council

The Commission President continued to serve as a member of the Law Reform Advisory Council (LRAC) in 2016–17.

On 29 July 2016 the LRAC *Guardianship and Management of Property Act 1991* inquiry report recommended significant reform to bring ACT guardianship laws into line with the UN Convention on the Rights of Persons with Disabilities.

On 8 September 2016, LRAC began an inquiry into fostering Canberra becoming a restorative city, with a focus on its legal and justice dimensions. An issues paper *Canberra—Becoming a Restorative City* was published in June 2017.

## National Code of Conduct for Unregistered Health Care Workers

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

The Health Services Commissioner continued to collaborate with Australian Health Complaint Commissioners, ACT Health and the Victorian Department of Health and Human Services on implementing the code in the ACT. The Commissioner continued to contribute to related activities, including developing a common framework for nationally consistent data collection with annual performance reports to the COAG Health Council, developing a common web portal and a nationally consistent suite of information to explain and support the Code.

## Victims of Crime Charter of Rights

The Parliamentary Agreement between ACT Labor and the ACT Greens for the 9th Legislative Assembly included a commitment to introduce a Charter of Rights for Victims of Crime.

A Charter of Rights for Victims of Crime presents an opportunity for victims to be recognised as having a legitimate place as participants in our criminal justice system. It has the potential to enhance or introduce new ways for victims of crime to interact with the justice system, including through increased participation in the justice process, new mechanisms for information provision and new options for complaint and redress.

The treatment of victims of crime in the ACT is currently guided by the Governing Principles contained in the *Victims of Crime Act 1994*. Major criticisms of the Act include that it: it lacks enforcement mechanisms, monitoring and compliance procedures; does not specify which agencies are responsible for which principles; and that it does not create actionable rights.

The ACT Government's preference is for a charter to transform the existing principles into obligatory rights through legislative reform. Alternative options for implementing and overseeing the charter would be explored.

The Victims of Crime Commissioner's staff discussed a comprehensive consultation process with the ACT Victims Advisory Board and JACS to ensure the charter responds to victims' and justice system agency needs. The Human Rights Legal and Policy team has assisted with technical human rights legal issues.

In 2016–17, an intern from University of Canberra prepared a Victims Charter Consultation Plan. Between April and June 2017, the Commissioner consulted individual victims and a focus group of victims of serious crime, and representatives of community groups that may be more vulnerable to crime or that experience particular issues in the criminal justice system. These included: people with disabilities; Aboriginal and Torres Strait Islander people; culturally and linguistically diverse people; lesbian, gay, bisexual, transgender, intersex, queer people; and children and young people. In the coming year the Commissioner will develop a consultation report reflecting those views.

In 2017–18, the Victims Advisory Board will oversee the development of an issues paper, outlining the current system, best-practice examples and options for the charter's implementation, to guide broader public consultation. A second consultation phase in early 2018 will provide stakeholders and the broader ACT community a further opportunity to participate in the Charters' development.

## Addressing Family and Domestic Violence

The Victims of Crime Commissioner played a significant role in the ACT Government's work to tackle family and domestic violence. The Commissioner chairs the Family Violence Intervention Program Coordinating Committee, is the Domestic Violence Project Coordinator and is participating in work to design the ACT's new Family Safety Hub.

## Domestic Violence Project Coordinator

As the Domestic Violence Project Coordinator under section 12 of the *Domestic Violence Agencies Act 1986* the Commissioner assists the ministerial advisory body, the Domestic Violence Prevention Council (DVPC). In this role the Commissioner:

- monitors and promotes compliance with government policies;
- assists government and non-government organisations to provide high-quality services;
- facilitates cooperation between government and non-government organisations; and
- assists the DVPC.

During the year the Commissioner oversaw the finalisation of the DVPC's Family and Domestic Violence Data Collection Project. Begun in 2015, the project's aim was to: identify existing domestic and family violence data, any data gaps and a core set of indicators; measure performance against the indicators using existing data; and devise a plan to improve data collection.

A project report was delivered to the Minister for the Prevention of Domestic and Family Violence in April 2017 outlining challenges to effective measurement of family violence in the ACT and recommendations on developing a core dataset and coordinated response to data collection. The DVPC recommended the ACT Coordinator-General for Family Safety implement the report recommendations, with the Council's assistance, to develop a family and domestic violence data framework in the ACT. The report has not been made publically available yet.

The Victims of Crime Commissioner also attended a two-day community forum in March 2017 with members of the Aboriginal and Torres Strait Islander community, which focused on what the community believed would make a difference to domestic and family violence in the ACT. Forum participants felt the DVPC and ATSIEB could lead or champion work that:

- implemented the *We Don't Shoot Our Wounded Report* recommendation;
- developed a community sector ACT Aboriginal and Torres Strait Islander Workforce Strategy;
- identified a range of supports for Aboriginal and Torres Strait Islander workers including a conference, regular catch-ups to debrief and build cross-sector approaches;
- developed an interactive functional directory to assist all service providers; and
- developed a strategy and resources to support post-intervention work.

## Family Violence Intervention Program Coordinating Committee

The Victims of Crime Commissioner chairs the Family Violence Intervention Program Coordinating Committee (FVIP CC). The FVIP was designed to respond to family violence incidents that come to the attention of police and proceed to prosecution. It integrates the activities of the police, prosecution, courts and corrections, and coordinates externally with key support agencies. Partner agencies are:

- ACT Policing;
- Office of the Director of Public Prosecutions;
- ACT Law Courts and Tribunal ;
- ACT Corrective Services;
- Legislation, Policy and Programs, Justice and Community Safety Directorate;
- Health Directorate;
- Child and Youth Protection Services, Community Services Directorate;
- Victim Support ACT;
- Victims of Crime Commissioner (FVIP Chairperson);
- Domestic Violence Crisis Service;
- Canberra Rape Crisis Centre; and
- Legal Aid ACT.

In July 2016, the Committee finalised a FVIP strategic plan for 2016–2018. Its strategic goals are to:

- confirm the role of the FVIP in the context of the funding package for Safer Families in the 2016–17 ACT Budget and decision to establish a Family Safety Hub;
- pursue innovative and ground-breaking strategic priorities and actions;
- continue to focus on victim experiences of the criminal justice system by proactively advocating for ongoing law reform and broader system reforms;
- focus on the effectiveness of perpetrator programs;
- continue to identify and implement improvements to the Family Violence Case Tracking program including exploration of expanding the program to include case tracking of civil protection order applications, improving information sharing systems and risk management;
- explore how the FVIP CC could work with the family law system and/or advocate for appropriate reforms;
- develop a framework of shared language and definitions; and
- recognise and explore the specific needs of Aboriginal and Torres Strait Islander people on family violence and the criminal justice system's response.

In 2016–17 FVIP CC completed a desktop audit of 28 finalised criminal family violence matters aiming to analyse response timeframes and other issues. It found that:

- many cases involved delays in court and the most significant cause of delay was the defendant entering a plea of not guilty, or changing their plea to guilty at a very late stage in proceedings; and
- a very limited number of victims were offered the opportunity to prepare and tender a victim impact statement.

Partner agencies in the FVIP CC will work to address these issues in 2017–18.

During the year the FVIP CC advocated for the importance of pursuing ICT and other solutions to ensure that bail reports clearly identify where criminal histories involve family violence. The importance of previous family violence offences being taken into account in bail decision making was emphasised in the *Royal Commission into Family Violence Report* (Victoria) (Recommendation 80). The report also recommended ensuring offences committed in the context of family violence were appropriately “flagged” in various databases.

The FVIP CC was informed that the ACT Government intended to place on hold consideration of police-issued safety notices and monitoring of ‘after hours orders’. The FVIP CC would prefer consideration of police-issued safety notices remain a priority. It considers police-issued safety notices (that could be issued without a Magistrate’s approval) could potentially benefit victims of family violence and fill a gap in the current range of interventions available.

The FVIP CC acts as the ACT Corrective Services Domestic Abuse Program’s (DAP) reference group. During 2016–17 it met to review the DAP completion rates, the general program and consider revising the reference group’s terms of reference.

FVIP CC meetings in 2016–17 included presentations on:

- Women’s Legal Centre trial legal workshops at Interchange General Practice;
- the Duluth model men’s behaviour change program based on a gendered understanding of domestic violence. The FVIP was initially developed with reference to the Duluth model that focuses on holding perpetrators to account and delivering integrated (multi-agency) responses;
- the Room4Change program, an innovative men’s behaviour change program delivered by the Domestic Violence Crisis Service; and
- ACT Housing Domestic Violence Policy.

## Family Safety Hub

The Office of the Coordinator-General for Safer Families, initially based in JACS, was established in 2016–17 in response to findings from three major 2015–16 reports: the *Glanfield Inquiry*; the *Review of Domestic and Family Violence Deaths in the ACT* (the Death Review); and *Domestic Violence Gap Analysis*. It was the first time the ACT Government had committed extensive resources to developing an integrated approach to family and domestic violence outside the criminal justice system.

The Victims of Crime Commissioner welcomed the new approach and worked closely with the Coordinator-General’s Safer Family Team to design a new Family Safety Hub. VSACT staff also contributed to this process via insights interviews. The Commissioner and the staff at VSACT will continue to engage in the development of the Family Safety Hub in 2017–18.



## Supporting Abuse Survivors

The Survivor Support Network ACT (SSN-ACT), a self-help group formed in 2016–17, received accommodation sponsorship from the Victims of Crime Commissioner. SSN-ACT is run by survivors, for survivors (men and women). It seeks to reduce isolation by encouraging encounters with other survivors and fostering self-acceptance. SSN provides mutual support but not counselling. SSN hopes that by fostering self-direction its members will achieve a better life balance and become more resilient.

The immediate focus of SSN-ACT is those affected by clerical sexual abuse. The possibility of expansion to include those with experience of sexual abuse from other contexts in the future is dependent on member capacity and resources.

## Public Advocate and Children and Young People Commissioner

The Public Advocate and Children and Young People Commissioner have legislative responsibility for protecting and promoting the rights and interests of people in the ACT who are experiencing vulnerability, and for consulting with children and young people in ways that promote their participation in decision-making.

The Children and Young People Commissioner's work is founded on two principles: promoting children's right to protection, and promoting children's right to participation. To achieve this, the Commissioner tries to make sure the people who make decisions about laws, policies and services that affect children and young people are aware of their needs and perspectives.

While the role of Children and Young People Commissioner is obviously a targeted one with a focus on ensuring that relevant stakeholders listen to and seriously consider the views of children and young people, the role of Public Advocate extends to all persons within the ACT whose situation or condition gives rise to a need for protection from abuse, exploitation or neglect, or a combination of those things.

The responsibilities of the Public Advocate and Children and Young People Commissioner are underpinned by a range of functions including advocacy (individual and systemic), representation, investigation, and monitoring. Some of these functions are specific to children and young people, and others include people with complex disability needs, including those with mental health conditions and/or forensic patients.

The Public Advocate and Children and Young People Commissioner maintains a strategic and systemic focus to ensure that advocacy, monitoring and oversight functions (and the recommendations that we make to government and non-government agencies on legislation, policies, and practices) foster the provision of services and facilities, encourage program development, and improve the accessibility, responsiveness and quality of supports and services for persons experiencing vulnerability.



Commissioner Jodie Griffiths-Cook meets ACT Police mascot Kenny Koala.

## Child Safe Organisations

Advocating for child safe organisations was a critical, ongoing priority issue for the Children and Young People Commissioner in 2016–17.

At every opportunity the Commissioner pointed to an urgent need for the ACT to adopt child safe standards and training to build the capacity of organisations to protect children. The Commission supports existing mechanisms such as 'Working with Vulnerable People Checks' and the 'Reportable Conduct Scheme' but, without other supporting strategies, does not consider them sufficient to protect children.

During the year, the Commissioner provided advice to the ACT Governments' Review of Working with Vulnerable People Checks on improvements to the system to provide increased protections for children and young people.

## Transitioning Young People Out of Detention

The pathways and supports available to young people transitioning out of youth detention was a priority focus area for the Public Advocate and Children and Young People Commissioner in 2016–2017.

ACT youth justice has undergone significant reform since the Commission completed its *ACT Youth Justice System 2011: A report to the ACT Legislative Assembly*. Subsequently the ACT Government developed a *Blueprint for Youth Justice in the ACT 2012–2022* and adopted an evidence-based, trauma-informed and human rights compliant policy approach to youth justice. The Commission continues to monitor the implementation of the policy.

While the Government and community made progress in prevention and diversion, more work is needed to promote reintegration and tackle recidivism.

The Commissioner began a project to examine the factors that contribute to some young people in Canberra leaving a period of detention and successfully reintegrating in the community, while other young people reoffend and return to detention within a few weeks or months. The Children and Young People Commissioner's staff reviewed literature on 'throughcare' in the youth justice system and interviewed stakeholders to learn from their observations of working directly with local young people. A local community organisation seeking the Commissioner's advice highlighted that the *Criminal Code 2002* s712A may hinder young people under diversion or transitioning from youth detention from accessing supported training or employment placements. Concerns about privacy protections unintentionally hindering young people's access to support are being considered as part of the project. The project will continue in 2017–18 with efforts to foster collaborative strengthening of the youth justice system.

## Children and Young People's Rights and Safety

The Children and Young People Commissioner provided advice and comment on a wide range of issues in 2016–17 including:

- Bimberi Youth Justice Centre Community Services Directorate (CSD) efficiency review – contributed to the review to ensure the centre retained a focus on rehabilitation. The Commissioner also provided comment on a Bimberi *Charter of Rights for Young People*.
- ACT Government's Countering Violent Extremism Steering Committee Children's Working Group – commented on a draft practice guide to assess children returning from conflict zones. The Commissioner also contributed to discussions about how best to support children and young people returning from conflict zones.
- Children's Court design – advised on universal access principles and child safe/child-friendly design considerations in designing a children's court.
- Therapeutic jurisprudence in the child protection system – interviewed by University of Canberra researchers commissioned by the ACT Magistrates Court.
- Australian Research Alliance for Children and Youth – contributed to a research report commissioned by the Education Directorate.
- Australian Institute of Family Studies – contributed to a comparative overview of child protection systems across Australia.
- Reportable Conduct Scheme – contributed to the ACT Ombudsman's development of the scheme.
- Driveway Safety Barrier Standards – provided a joint submission with Kidsafe ACT advocating for building standard improvement alongside awareness programs for parents and other adults.
- 'Play by the Rules' factsheet – updated content on an Active Canberra factsheet on child protection and participation.
- Inclusion support for school age care – offered advocacy support to a local outside school hours care operator concerned about insufficient funding to support placements for children with disability.



- Australian Defence Force Cadet Programs Age Guidelines – provided advice on a proposal to standardise age cohorts for cadet programs across defence.
- Canberra Light Rail Network – advised the ACT Government to consult with children and young people on the network design.
- Haig Park Reimagining – commented on the Office of the Commissioner for Sustainability and the Environment submission from the perspective of children and young people.

### Transitioning Young People Out of Care

In 2016-2017, the Public Advocate implemented a project with Premier Youth Works (PYW) to review the adequacy of transition plans for young people leaving residential care.

Public Advocate staff met with ACT Together senior staff with responsibility for children and young people in residential care to discuss the reports received and provide feedback to improve them. It was acknowledged this was a new area for ACT Together and early findings identified the reports provided a high level of detail that may be unnecessary, such as reasons why young people were removed from their birth families' care. Conversely, transition plans lacked specific detail on actions needed to facilitate a successful transition, time frames for actions to be completed and those responsible for follow up on identified actions. ACT Together remain open to ongoing discussions with Public Advocate staff about how they could further develop and improve transition planning.

While this was a systemic advocacy project, the Public Advocate identified concerns about two young people that had transitioned to hostel accommodation. Public Advocate staff requested meetings with the young men but they declined. Discussions with ACT Together, however, indicated they were receiving adequate support.



National Indigenous Human Rights awards 2017. L-R: Gail Mabo, Human Rights Legal & Policy Director Belinda Barnard, President Dr Helen Watchirs, Human Rights Policy Officer Nat Brown, Gabrielle McKinnon Human Rights Legal and Policy Officer. Centre: Gayili Marika Yunupingu Eddie Mabo Social Justice Award Winner.



## DELIVERING SERVICES

### Strategic Priority 3: Enhance Services and Service Delivery



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

In 2016/17 a number of roles and functions were combined in the Discrimination, Health Services and Disability and Community Services Commissioner. The combination gives the Commissioner the ability to identify and advocate for systemic issues that affect vulnerable groups in the ACT community, across a range of settings.

The Commissioner has responsibility for:

- handling all complaints received by the Commission, including complaints about alleged discrimination, health services, disability services, services for older people, services for carers and children and young people;
- promoting awareness of rights and obligations provided for by the HRC ACT and *Discrimination Act 1991*;
- improving service provision and outcomes for people protected by the Acts;
- using Commissioner-Initiated-Consideration powers to address systemic issues;
- promoting an understanding of, and compliance with the Acts; and
- supporting improvements in the provision of services.

#### Commission-Initiated-Considerations

A Commission-Initiated Consideration (CIC) may begin where there is a concern a systemic problem may exist, that is, where a number of complaints or notifications about a particular practice or organisation are received; a complaint is made anonymously; the person does not have personal standing, involvement or authority to make a complaint; or where the community raises an issue, such as in the media. In these circumstances the Commissioner in effect becomes the complainant and matters are investigated as a complaint.

In 2016–17, the Discrimination, Health Services, Disability and Community Services Commissioner began eight new CICs and closed 23 CICs.

#### Methadone Prescribing at AMC

Mr Philip Moss's *Report of the Independent Inquiry into the Treatment in Custody of Mr Steven Freeman: So Much Sadness in Our Lives* (the Moss Report) recommended:

*That the Health Services Commissioner (of the ACT Human Rights Commission) conduct an own-initiative investigation into the prescription of methadone to detainees at the AMC.*

This is a large body of work for the Commission in 2016–17. It is anticipated that the Health Services Commissioner's investigation report will be completed by the end of 2017.

The investigation is focused on the prescription of methadone but will consider the broader context of the opioid replacement therapy (ORT) program including:

- the ORT'S role in the prison context;
- its assessment and prescription practice;
- administration of methadone and buprenorphine/suboxone;
- monitoring of detainees being inducted onto ORT;
- managing the risk of methadone and suboxone diversion; and
- throughcare and transition to ORT in the community.

### Improving Oversight of Confinement and Seclusion

The Health Services Commissioner began a CIC into whether a hospital was meeting its 'use of confinement' documentation and reporting obligations under the *Mental Health Act 2015* following concerns raised by the Public Advocate. Enquiries found there was uncertainty about the difference between 'confinement' and 'seclusion', with different documentation and reporting across the hospital, and uncertainty about reporting obligations when a patient was confined or secluded, but did not fall under the Act.

Discussions with key stakeholders agreed a clear definition of the terms 'confinement' and 'seclusion' was needed, and hospital policy should clearly articulate the expectations of staff for each circumstance in which a patient is confined or secluded, both within and outside of the scope of the *Mental Health Act*. It was also agreed that regular oversight meetings to ensure scrutiny of practice and reporting would be beneficial and that the Public Advocate would participate.

### Bimberi

The Disability and Community Services Commissioner began a CIC into Bimberi Youth Justice Centre's administration after receiving several concerns through different avenues in 2016–17. The CIC will consider procedures and operations related to the safety and security of children and young people, staff training and responses to reportable incidents. A Commission CIC report is anticipated by the end of 2017.

### Other CICs Closed in 2016-17

During 2016–17, the Commissioner closed 11 health-related CICs about:

- staffing levels, skills mix and training at a retirement village;
- managing complex needs of vulnerable patients; and
- access to outpatient services at a public hospital.

During 2016–17, the Commissioner closed four CICs about services for children and young people relating to:

- access to health records in a school setting;
- use of seclusion in a school; and
- use of restrictive practices in a residential care setting.

During 2016–17, the Commissioner also closed seven CICs about services for people with disability relating to the:

- quality of care provided to clients in residential care;
- health support services to children with disabilities in schools; and
- alleged physical and verbal abuse by a support worker.

During 2016–17, the Discrimination Commissioner closed one CIC relating to the ACT *Discrimination Act 1991* relating to the availability of Auslan courses for ACT residents.

## Health Services Complaints

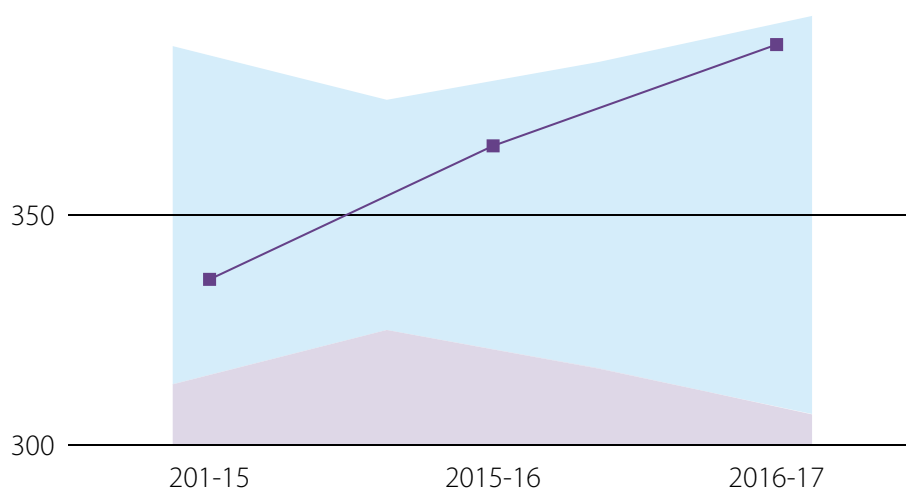
ACT community members can make a complaint to the Health Services Commissioner about any health service provided in the ACT, including about public and private health services, individual practitioners and health services provided in settings such as aged care facilities, supported accommodation, schools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

Complainants may raise issues about registered practitioners, such as medical practitioners, dentists, nurses and midwives, chiropractors and psychologists. The process is managed under a co-regulatory model with the Australian Health Practitioners Regulation Agency (AHPRA) and national boards of the fourteen registered practitioner professions.

The Commissioner also handles complaints about veterinarian services in the ACT under a co-regulatory model with the ACT Veterinary Surgeons Board.

The Health Services Commissioner's complaint handling team responded to 480 enquiries. It received 387 health service complaints including AHPRA and ACT Veterinary Surgeons Board notifications. Of these, the Commissioner jointly considered 194 new matters notified from AHPRA, compared to 159 in the previous year.

**Figure 2: Health Services Complaints 2016–17**



The overwhelming majority of health complaint issues were about treatment in 2016–17. Communications issues were also a common cause for complaint to the Commission.

**Table 4: Health Complaint Issues**

Issue	Number of Complaints
Treatment	102
Communication	23
Fees and costs	15
Medication	13
Access	11
Medical records	7
Professional conduct	7
Reports and certificates	5
Consent	5
Environment/management of facilities	4
Discharge and transfer	1
<b>Total</b>	<b>193</b>



Of 193 complaints about health services lodged during the year, 85 related to ACT Health. The distribution of those complaints across the ACT Health's service areas was similar to 2015-16.

**Table 5: Complaints by ACT Health Directorate Area**

Health Directorate	Number
Justice Health (including AMC dental)	18
Canberra Hospital	45
Mental Health ACT	6
Calvary (Public) Hospital	5
Other	11
<b>Total</b>	<b>85</b>

Other complaints related to private sector organisations or individuals. Individual providers were named in 78 complaints, 50 of them were medical practitioners, 6 dental practitioners and 12 were nurses/midwives. The remainder related to other professions involved in health service delivery.

### Working with AHPRA

The *Health Practitioner Regulation National Law* (National Law) requires national boards to jointly consider with the Commissioner how to action a complaint, including investigating a practitioner, taking regulatory action or no further action. Similarly, the Commissioner must notify the relevant national board when a complaint is received about a registered health practitioner and reach agreement about the final outcome of the complaint. If agreement cannot be reached, the National Law requires the most serious action proposed be taken.

While the complaint process requires joint consideration of matters with the Commissioner, only national boards can take regulatory action against individual health practitioners, such as imposing conditions, requiring a performance assessment or deregistration. Practitioners can appeal reviewable decisions to the ACT Civil and Administrative Appeals Tribunal (ACAT).

AHPRA can refer matters to the Health Services Commissioner if they fall outside of its jurisdiction, such as issues related to systemic concerns about a health service, rather than about an individual registered practitioner.

AHPRA referred 10 matters to the Commission in 2016–17.

The Commissioner referred 14 matters to AHPRA, less than the previous period (38).

The Commissioner and AHPRA jointly considered 300 matters in 2016–17. Of these 217 were dealt with by AHPRA, and 73 were investigated by the Commissioner.

Each matter may require multiple joint consideration processes to decide how to progress it or whether regulatory action is needed. The Commissioner jointly considered 476 decisions with AHPRA in 2016–17, more than the 421 decisions last year. Immediate action was taken against practitioners in 22 matters, greater than in the previous period (14).

The Commission and AHPRA closed 187 matters in 2016–17.

Table 6: Health Service Complaints Closed by the Commission and APHRA—Final Outcome

Board	No Further Action	Caution	Conditions	Referral to HSC	Undertaking	Performance Assessment	Health Assessment
Chinese Medical	2	-	-	-	-	-	-
Chiropractic	1	-	-	-	-	-	-
Dental	5	3	1 (education)		1 (not to practise)	1	
Medical	88	16	1 (not to practice) 1 (supervision, attend treating practitioner) 1 (education)	2	1 (not to practise)	3	
None	1	-	-	4	-	-	-
Nursing and Midwifery	10	8	3 (education) 1 (mentoring) 1 (limited access to medication) 1 (not to practice)	1	-	2	3
Occupational Therapy	2	-	-	-	-	-	-
Optometry	-	1	-	-	-	-	-
Pharmacy	9	10	3 (mentoring) 2 (education) 1 (limited access to medication) 1 (audit)	-	-	-	-
Podiatry	-	1	1 (breath testing, attending treating practitioner)	-	-	-	-
Psychology	7	-	-	-	-	-	-
Medical Radiation Practice	1	-	-	-	-	-	-
Veterinary	9		1 (education, change practice)				
<b>Total</b>	<b>135</b>	<b>39</b>	<b>19</b>	<b>7</b>	<b>2</b>	<b>6</b>	<b>3</b>



### Services Improved After Complaint

A man complained that his wife was unable to access the necessary diagnostic services to treat her condition at a hospital. Following the Commission's enquiries the hospital audited their service and as a result employed a new manager that initiated service changes including:

- standardising terminology used to categorise the urgency of referrals and developed time frames to reflect appropriate wait-times for each category;
- began daily audits to ensure wait-times were met and staffing, or delivery of essential material, can be adjusted in response to demand; and
- changed staffing, including employing more staff.

As a result service availability has increased from three to five days a week and the recommended timeframes for each categorisation of urgency are being met with much improved frequency.

The man was satisfied that access to the service was improved and the case was closed.



### ACT Cancer Treatment Investigation

A man complained that following a cancer diagnosis he was assessed as unsuitable for treatment and referred to palliative care services.

He sought a second opinion in another state, a different clinical decision was reached and he has since undergone successful treatment.

The man complained about the assessment and clinical decision reached in the ACT and sought the Commission's assistance in relation to costs associated with seeking treatment interstate.

The Commission successfully sought payment for his interstate travel costs. Its investigation of the man's management found that the decision to decline active treatment resulted from a communication breakdown in his treating team.



### Improved Community-based Nursing

The Commission was alerted to vulnerable patients in the community being exposed to possible inappropriate nursing practices.

The Commissioner initiated a consideration into the oversight of staff working in this environment with a focus on reporting and supervision of community nurses and their adherence to the *Health Records (Privacy and Access) Act 1997*. The Commission was provided with a variety of material including a Clinical Management Standard Operating Procedure (SOP) that revealed gaps in formal oversight of nursing practice, inadequate supports for nurses and inadequate education.

The Commission recommended changes to the SOP including:

- scheduling regular meetings to ensure oversight of practice and provide support;
- formal handover processes to ensure continuity of care even when carers change; and
- a clinical management framework for all clients identified as vulnerable and with complex and long-term needs.

The Commissioner was satisfied the revised SOP improved oversight of nurses and the continuity of management provided to community-based clients.

### ACT Veterinary Surgeons Board

The Commissioner received nine new matters, an increase on seven last year.

The Commissioner jointly considers matters about veterinarians' conduct with the ACT Veterinary Surgeons Board. In 2016–17, the Commissioner jointly considered 10 veterinarian matters.



## Conciliation of Health Services Complaints

Health service complaints can be resolved informally through discussion with the parties or be referred for conciliation. Conciliation is an informal and accessible process in which Commission staff help parties resolve a complaint.

Conciliation outcomes may include an apology or statement of regret, explanation of the services provided, acknowledgement of issues with service delivery or changes to a service provider's policies and procedures to improve the quality of service delivery. Parties can negotiate financial outcomes to reimburse costs incurred, associated future medical costs, or to compensate economic and non-economic loss and/or damage.



### Conciliation Improves Discharge Planning

A woman complained to the Commission that her husband was discharged from cancer treatment at a hospital without sufficient support or coordination of ongoing care. She claimed the health provider's management and care of her husband's treatment contributed to a poorer quality of life in the time he had remaining with his family.

The complaint was resolved through Commission conciliation with the health provider agreeing to change its discharge planning practice, communication with patients and their families and outpatient appointments management. The health provider acknowledged and apologised to the complainant for their experience and provided financial compensation for costs relating to the complaint.



### Communication Key to Informed Consent

A woman complained to the Commission that she experienced extreme pain and tissue damage as a result of incorrect procedures performed by a junior health practitioner during post-operative radiation treatment.

She alleged she did not provide informed consent for the procedure and raised concerns about her privacy during the procedure.

The Commission sought statements from the relevant practitioners and jointly considered the matter with the Nursing and Midwifery Board.

The matter was resolved through conciliation with the health service agreeing to change its communication practices with patients about the procedure, including telling them who would perform it, and changes to ensure patients' privacy.



### Inadequate dental treatment

A complainant contacted the Commission about experiencing adverse effects after root canal treatment and being charged additional fees he had not been made aware of.

A notification was made to the Australian Health Practitioner Regulation Agency and after an investigation regulatory action was taken against the dentist.

The complaint was resolved through conciliation with an offer of refund for the treatment and an undertaking by the dentist to change the practice's communications about fees.

## Discrimination Commissioner

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

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

### Discrimination Complaints

There were 294 discrimination-related inquiries in 2016–17, down from 345 last year, and 115 human rights-related enquiries. While the Commission does not have the jurisdiction to handle human rights complaints, these inquiries often relate to its human rights and discrimination systemic, policy or litigation work.

There were 78 new discrimination complaints lodged with the Commissioner during the reporting period. These contained 121 discrimination allegations on 20 grounds.

The most common ground alleged was disability, with 40 cases representing 33.1%, a similar amount to previous year. Race was the second most common ground of complaint, with 18 complaints representing 14.9% of all cases, followed by sex discrimination with 13 complaints.

The Commission received its first complaint on the ground of 'immigration status', one of eight new grounds that commenced on 3 April 2017.

### Discrimination Act Expanded

The expansion of protections available to the ACT community under the *Discrimination Act 1991* was a significant achievement in 2016–17.

The Commissioner's role was always broad, covering most areas of public life, including employment, education, access to premises, accommodation, clubs and the provision of goods, services or facilities.

The ACT community had the benefit of 16 attributes being protected under the ACT including:

- age;
- association with a person who has an attribute protected by the *Discrimination Act*;
- breastfeeding;
- disability (broadly defined and including reliance on an assistance animal or other disability aid);
- industrial activity;
- pregnancy;
- political conviction;
- profession, trade, occupation or calling;
- race;
- relationship status
- sex; and
- sexuality.

From 3 April 2017 the Act safeguards an additional six attributes, and some existing attributes were expanded and/or modernised. The new attributes were:

- accommodation status (includes being a tenant, an occupant under the *Residential Tenancies Act 1997*, being a Housing and Community Services, or other housing assistance client, including being on a waiting list, or being homeless);
- employment status (includes being unemployed, receiving a pension or other social security benefit, receiving compensation, being employed on a part-time, casual or temporary basis or undertaking shift or contract work);
- genetic information;
- immigration status (includes being an immigrant, a refugee or an asylum seeker, or holding any kind of visa under the *Federal Migration Act 1958*);
- intersex status (means status as an intersex person); and
- physical features (means a person's height, weight, size or other bodily features).

The expanded attributes were:

- gender identity (means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person, with or without regard to the person's designated sex at birth);
- irrelevant criminal record (broader than the previous attribute of spent conviction);
- parent, family, carer or kinship responsibilities; and
- religious conviction (now explicitly includes not having a religious conviction, as well as the cultural heritage and distinctive spiritual practices, observances, beliefs and teachings of Aboriginal and Torres Strait Islander people, or engaging in these).

New grounds for vilification also commenced on 25 August 2016 so a person can now complain where something happens 'other than in private' that has the effect of inciting hatred toward, revulsion of, serious contempt for, or severe ridicule of a person, or group of people on any of the following grounds:

- disability;
- gender identity;
- HIV/AIDS status;
- race;
- religious conviction; or
- sexuality.

Other improvements to the *Discrimination Act* included embedding the HR Act 'equality right' and the concepts of 'substantive equality' and 'reasonable adjustment' into the Discrimination Act's objects.

**Table 7: Complaints By Discrimination Ground**

Complaint	2016-17	2016-17 %	2015-16	2015-16 %	2014-15	2014-15 %
Disability	40	33.1%	52	31%	43	36%
Race	18	14.9%	25	15%	12	10%
Vilified on ground of race	7	5.8%	12	7%	4	3%
Victimised	3	2.5%	9	5%	11	9%
Sexuality	2	1.7%	8	5%	1	1%
Religious conviction	2	1.7%	7	4%	0	0%
Sex	13	10.7%	7	4%	3	3%
Political conviction	0	0%	6	4%	1	1%
Sexual harassment	6	5%	6	4%	6	5%
Spent Criminal Conviction	1	0.8%	5	3%	0	0%
Status as a parent or carer	9	7.4%	5	3%	3	3%
Age	4	3.3%	4	2%	6	5%
Gender identity	3	2.5%	4	2%	4	3%
Vilified on grounds of sexuality	1	0.8%	4	2%	7	6%
Assistance Animal	3	2.5%	3	2%	2	2%
Breastfeeding	1	0.8%	3	2%	-	-
Profession, trade, occupation or calling	4	3.3%	3	2%	1	1%
Relationship status	1	0.8%	2	1%	6	5%
Association with a person who has an attribute listed above	0	0%	1	1%	1	1%
Industrial activity	0	0%	1	1%	1	1%
Pregnancy including potential pregnancy	1	0.8%	1	1%	1	1%
Immigration status	1	0.8%	-	-	-	-
Vilified on grounds of gender identity	0	0%	1	1%	2	2%
Vilified on grounds of HIV/AIDS	0	0%	0	0%	5	4%
Vilified on grounds of religious conviction	1	0.8%	-	-	-	-
<b>Total</b>	<b>121</b>	<b>100%</b>	<b>169</b>	<b>100%</b>	<b>120</b>	<b>0%</b>



Previous complaint trends continued in 2016–17 with the provision of goods, services or facilities again being the highest area of complaint (36%). Employment was the second highest area (28%) of discrimination complaints, which is an increase from last year. Accommodation overtook education as a complaint area, with access to premises slightly down from last year.

Note that just as a discrimination complaint can be made on more than one ground, a single complaint can also be made about multiple areas of public life.

**Table 8: Discrimination Complaint Allegations By Area**

Area	2016–17	2016–17 %	2015-16	2015-16 %	2014-15	2014-15 %
Provision of goods, services or facilities	36	36%	61	46%	37	39%
Employment	28	28%	16	12%	21	22%
Education	9	9%	12	9%	6	6%
Access to premises	6	6%	11	8%	11	12%
Accommodation	11	11%	8	6%	7	7%
Clubs	-	-	6	5%	2	2%
Unlawful advertising	-	-	6	5%	2	2%
Contract worker	-	-	4	3%	0	0%
Request for information	1	1%	3	2%	1	1%
Professional trade or organisation	-	-	2	2%	2	2%
Employment agency	-	-	2	2%	2	2%
Qualifying body	-	-	2	2%	1	1%
Other (not relating otherwise to another area of public life)	-	-	0	0%	2	2%
Partnership	-	-	0	0%	0	0%
Vilification through public act (not relating otherwise to another area of public life)	9	9%	0	0%	1	1%
<b>Total</b>	<b>100</b>	<b>100%</b>	<b>0</b>	<b>100%</b>	<b>95</b>	<b>100%</b>

Discrimination complaints were mostly against private enterprises (29), an increase of more than 10%, and overtaking the number of complaints about ACT Government agencies (23).

**Table 9: Respondents To Complaints**

Respondents	2016–17	2016–17 %	2015-16	2015-16 %	2014-15	2014-15 %
ACT Government department, agency or statutory authority	23	29.5%	29	32%	16	21%
Private enterprise	29	37%	22	24%	31	41%
Community organisation	6	8%	12	13%	5	7%
Education institution	12	15%	5	5%	6	8%
Individual male	3	4%	5	5%	1	1%
Recruitment agency	1	1.3%	4	4%	2	3%
Individual female	2	2.6%	3	3%	1	1%
Correctional institution	1	1.3%	2	2%	-	-
Club	-	-	1	1%	3	4%
Other	-	-	8	9%	0	0%
Individual unknown gender	-	-	0	0%	8	11%
Accommodation	-	-	0	0%	2	3%
Industry body	1	1.3%	-	-	-	-
<b>Total</b>	<b>78</b>	<b>100%</b>	<b>91</b>	<b>100%</b>	<b>75</b>	<b>100%</b>

### Closed Discrimination Complaints

During the reporting period 77 discrimination complaints were closed. Of these 16 were withdrawn by the complainant and 18 cases were closed without resolution (including because the Commission believed conciliation was unlikely to succeed; the complaint lacked substance; the matters raised have been, or will be, dealt with by a court or tribunal; or the alleged events occurred more than two years ago). The remaining 43 cases were finalised as resolved, including through Commission conciliation.

During the reporting period, the Commission continued to focus on providing a fair, impartial and accessible individual complaint handling process, primarily resolving disputes through conciliation.

The Commission's focus is on helping people to resolve complaints by bringing them together as quickly as possible, where appropriate, to discuss the issues.

Of the 29 cases conciliated, 21 reached successful agreements, representing 72.5% of all cases.

**Table 10: Commission Conciliations in 2016–17**

Agreement	2016–17	2016–17 %	2015-16	2015-16 %	2014-15	2014-15 %
Agreement reached	21	72.5%	23	79%	17	59%
Agreement not reached	8	27.5%	6	21%	12	41%
<b>Total</b>	<b>29</b>	<b>100%</b>	<b>29</b>	<b>100%</b>	<b>29</b>	<b>100%</b>



### **School Fees Waived in Race Discrimination Complaint**

A union complained about fees a member had to pay for her daughter to attend a public school because of her visa status. In this case, lodged before the new ground of 'immigration status' commenced, the complaint was lodged on race discrimination grounds.

The respondent denied it discriminated against the woman and maintained it was acting according to its policy on dependents of temporary Australian residents. It also pointed out that under section 26 of the *Federal Migration Act 1958* temporary visa holders could be charged fees.

A conciliation conference did not resolve the complaint. However, the respondent invited the complainant to seek a review and due to the family's financial hardship, a fee refund was granted and future fees for two children waived.



### **Disability Discrimination at Work**

A woman applied for a position as a care manager in a residential setting but despite meeting all selection criteria was advised that she was not suitable following a functional assessment.

The company operating the facility denied they had discriminated against the woman and insisted they were following recruitment policies that reduced the risk of employing people who were not able to do the job because of their health or physical capabilities.

The complaint was resolved at conciliation with the company paying the woman \$5,000 in compensation.



### **Sexual Harassment and Sex Discrimination Complaint Resolved**

A woman complained that one of her colleagues made sexualised comments to her, and that these made her feel uncomfortable. The woman had complained to her manager but was unsatisfied with the way her concerns were handled and concerned that she still had to work with the colleague. The colleague denied the comments and the employer claimed they could not change the roster.

The complaint was resolved through Commission conciliation with an agreement that training about sexual harassment and discrimination would be provided to all staff and a commitment that, where possible, the woman's shifts would be adjusted so she did not need to work with the colleague about whom she had complained.



### **Making Movies Accessible**

A vision-impaired person complained about the lack of audio captioning at a cinema complex, which he attended with a friend. The cinema operator agreed to implement audio captions and closed captions to be installed.



### **Making Housing Accessible**

A woman with a disability complained about access issues in a home provided by a housing service, including not being able to safely shower and having only one exit. The service agreed at conciliation to improve access issues in the home.



## ACT Civil and Administrative Tribunal Referrals

In the discrimination jurisdiction, the Commissioner's role is to consider and if appropriate, conciliate complaints. If a complaint is not resolved at conciliation, the complainant can ask the Commission to refer the matter to the ACT Civil and Administrative Tribunal (ACAT) for a binding decision about whether or not discrimination occurred. Eleven complaints were referred to ACAT in 2016.

There were three reported decisions in the discrimination jurisdiction in the ACAT this financial year.

*Ezekiel-Hart v Reis & Anor (Discrimination) [2017] ACAT 3:* In this case the applicant Mr Ezekiel-Hart held a strong view that he had been treated unfavourably by the Law Society and the Professional Standards Manager Mr Reis because of his African descent and political conviction. There had been previous litigation between the parties, some connected to the current application, which added complexity to the proceedings. Given the serious nature of the applicant's allegations ACAT reasoned that the principle in *Briginshaw v Briginshaw* [1938] HCA 34; (1938) 60 CLR 336 applied. The Briginshaw principle is that the more serious the allegation, the weightier the evidence must be for a court or tribunal to be satisfied that the allegation is proven. ACAT took the view that Mr Ezekiel-Hart's allegations were of a very serious nature as he was not asserting unconscious discrimination, but that there was actual collusion over many years between professional people motivated by racial hatred, including that they had concocted minutes and lied to further Mr Ezekiel-Hart's exclusion. ACAT accepted his submissions that:

*"... it is unusual to find direct evidence of racial discrimination"* and that

*"The weight of precedent supports ... that inferences about race discrimination can be drawn from the evidence in any case, since discrimination can be hidden even to those who are racist".*

However, ACAT considered it could not draw a reasonable and definite inference of racism and found there was no unfavourable treatment under the Discrimination Act. It also found that, although the decision to not approve Mr Ezekiel-Hart's practicing certificate amounted to unfavourable treatment, the reason was not because of his race or political conviction. ACAT decided too that Mr Ezekiel-Hart was not subjected to any victimisation or vilification.

*Mr M v B (Discrimination) [2017] ACAT 14:* In this case Mr M alleged discrimination on the ground of race and victimisation. The respondent B, a small aged care facility, was Mr M's employer. Although ACAT found that Mr M was treated unfavourably having received a warning from B, which was recorded on his employee file, ACAT concluded this was not because of his race. ACAT in considering the evidence decided it was not able to draw a reasonable and definite inference of racism from the circumstances. ACAT also found there was no indirect discrimination or victimisation. Mr M was successful in obtaining an order prohibiting the publication of his name or evidence that might identify him and, given the nature of the matter, ACAT extended this prohibition to the publication of the names or evidence that might identify any party or witness in the proceedings.

*Macca v Australian Capital Territory represented by Emergency Services Agency (Discrimination) [2017] ACAT 19:* This decision arose from a strike out application made by the respondent on the ground that the applicant, Mr Macca, lacked standing to bring his application; or failed to prosecute his application; and/or failed without reasonable excuse to comply with ACAT's orders. The respondent also sought an order that the applicant pay the respondent's costs relating to the strike-out application. ACAT dismissed the application including the costs request. It is anticipated that Mr Macca's substantive application, involving a claim the Emergency Services Agency's 2016 recruitment round in which eight out of the sixteen new fire-fighter positions were to be allocated to female applicants discriminated against him on the ground of his sex, will be heard in 2017-18.

## Disability and Community Services Commissioner

The Disability and Community Services Commissioner has responsibility for handling complaints about services for older people, disability services and services for children and young people in the ACT.

The Commissioner also promotes improvements in the provision of services for people with disability and their carers, including raising awareness of their rights as service users, and among service providers an increased awareness of their responsibilities to service users.

Raising awareness of the community's legal rights helps build their capacity for self-advocacy and awareness of the Commission's complaint handling processes to seek redress.

In 2016-2017 the Commissioner continued a proactive community engagement program to raise the Commission's profile as a complaint handling body in these specific areas of service delivery, and to inform people of the Commissioner's role.

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

## Disability and Community Services Complaints

Complaints received about disability services rose in 2016–17 compared to the previous reporting period. Fifty-two enquiries about services to people with a disability and/or their carers were received and 18 new complaints. Six new complaints were about community sector providers and 12 about government providers.

Complaints were about care planning (8), access to service (5), co-ordination of service (3) and disability carers (2).

In 2016–17, the Commissioner's team finalised 20 complaints. Outcomes achieved included:

- referred disability support worker to AFP and ensured exclusion of the worker from the persons home;
- assisted an agency to implement changes to reporting practises and chain of reporting in relation to incident reporting;
- facilitated a written apology to a complainant;
- facilitated a refund in relation to funds withheld by a service provider;
- assisted a complainant to re-engage with a service provider after services had been discontinued; and
- reminded service providers about their legislative obligations.

The Commissioner closed seven disability-related CICs in 2016–17.

## Older People's Services Complaints

The Discrimination, Health Services, Disability and Community Services Commissioner's jurisdiction includes services for older people including complaints about:

- organisations providing specialised services for older people and their carers, such as retirement villages, personal and home-care services and respite care;
- care support workers, such as people providing personal and home care assistance, home maintenance or transport; and
- recreation or community support organisations providing services, such as food services, advocacy or employment.

In 2016–17, the Commission received 14 enquiries about services for older people and received one complaint, which is less than the four complaints it received in 2015-16.

The low number of complaints does not reflect ongoing community feedback that older people continue to experience barriers to participation in public life. It may reflect a low level of awareness of the Commission's functions and by older people's reluctance to formally complain about services they rely on for daily care.



### Tackling Abuse in Sport

The parents of three young football players raised concerns about alleged abuse and harassment by the player's coach. The respondent organisation initiated an investigation into the matter but the complainants were dissatisfied with the process and the lack of transparency about the results of the report and lodged a complaint about their concerns with the Commission.

Following the Commission's investigation the respondent organisation sought the Commission's assistance and input with regard to review and development of their policies. These included changes to induction procedures for new coaches, with more robust screening processes, as well as a new senior role for improved monitoring and evaluation of coaches. Communication practices and policies were also reviewed across the organisational structure and developed further, to support an expanding organisation.

The Commissioner delivered information sessions and resources to older people to increase awareness of their rights and complaint handling services in the ACT in 2016–17, and in the coming year will work with community members and stakeholders to build a stronger awareness of the Commission's complaint process and work to increase older people's confidence in accessing the Commission's services.

The Commission's intake team often fields and refers concerns raised by older members of the community that are amenable to more appropriate resolution by other services, such as Legal Aid or the national Aged Care Complaints Commissioner (ACCC). Some of these enquiries relate to elder abuse or services provided by Commonwealth agencies.

The Commission notes the overlap in age discrimination, disability services and health services jurisdictions. For example, a woman reported that a transport and care assistance service's information was not accessible as it was only available online. The Commission accepted it as an age discrimination complaint under the ACT *Discrimination Act 1991* and facilitated early resolution. Complaints about health services provided in aged care facilities can be dealt with as health services matters but in some cases the age discrimination provisions of the *Discrimination Act* may provide a more appropriate remedy.

Matters more appropriately resolved by the ACCC are referred to that service. The ACCC deals with complaints about Australian Government-subsidised aged care in the ACT and has some jurisdictional overlap with the Discrimination, Health Services, Disability and Community Services Commissioner.

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

The Commissioner continued as a member of a Review Advisory Group examining the effectiveness of Retirement Villages ACT.

## Children and Young People Complaints

The Discrimination, Health Services, Disability and Community Services Commissioner has taken responsibility for dealing with complaints about services for children and young people. Complaints may involve any service provided to children and young people, including education, sport, child protection and out of home care, disability services such as respite or transport services, child-specific health services such as mental health services, and youth justice.

During the reporting period, the Commission received and closed 17 complaints about services provided to a child, young person or their carer.

During the reporting period, the Commission received and helped resolve 63 enquiries about children and young people's services.

**Table 11: Children and Young People Complaints**

Description	2014-2015	2015-2016	2016-2017
Complaints	16	10	17
Enquiries	66	66	63
Total	157	76	80

Consolidating complaint handling functions to a single Commissioner means people can be guided on the jurisdictional options for a concern. In some cases a concern brought to the Commissioner's attention by a young person or their parent or carer could fall under multiple jurisdictions. For example, a complaint about inadequate supports for a young person's disability at an educational environment could be dealt with as a complaint about disability discrimination in education.

Complaints about services for children and young people generally relate to claims that service provision does not adhere with provider's obligations under policies and legislation. For example, complaints may relate to management of a child's relationship with parents while in out-of-home care, or a lack of mental health services for young people.

Complaints often involve communication concerns, for example, about insufficient information on decision-making processes or protocols for allocating resources or individualised supports. Service users complain about a lack of consultation about important decisions or opportunities to be involved in decision-making. Concerns may relate to inadequate communication between service providers for effective coordination of care and support for a child or young person. Communication complaints also relate to staff member's attitudes or behaviour causing distress.

The Commission received and investigated concerns from the community around the use of restrictive practices in schools and support services for children and young people with complex needs. Resolving these concerns involved improving dialogue and understanding between relevant stakeholders about the concerns, the rights of children and young people and obligations under relevant policy, procedure or legislation.



The Commission has also received complaints and enquiries involving allegations that a service was not available when requested or needed, or claims that a service's documentation is poor or inaccurate.

**Table 12: Complaint Investigations – Service Provider**

Service Provider	2013-2014	2015-2016	2016-2017
<b>Office for Children, Youth and Family Support:</b>			
- Child and Youth Protection Services	6	4	8
- Bimberi	3	4	2
<b>Education providers:</b>			
- Government	4	2	3
- Private or independent	1	0	1
<b>Other government agencies</b>	0	0	2
<b>Community sector agencies</b>	2	0	-
<b>Private sector agencies</b>	0	0	1
<b>Total</b>	<b>16</b>	<b>10</b>	<b>17</b>

## National Disability Insurance Scheme

The Commission received several complaints about the National Disability Insurance Agency (NDIA) services, including about:

- delays providing information to participants;
- delays making decision about a participant's plan, phone calls not returned for many weeks;
- reviews of plans without the participant's consultation;
- funding reductions without consultation with the participant resulting in a significant decline in quality of life;
- decisions made without consultation or notification; and
- delays in approving plans resulting in funding gaps.

The Commission met with the NDIA to try to resolve complaints and will continue to engage it to ensure ACT residents can access redress mechanisms when required.

The Commission will provide a submission to the Senate Committee Inquiry into the National Disability Insurance Service Amendment (Quality and Safeguards Commission and Other Measures) Bill 2017 expressing concerns about gaps in oversight and investigatory powers over the NDIA and its disability services provision. The Bill's proposed Quality and Safeguards Commission will not have jurisdiction over the NDIA, and the Commonwealth Ombudsman can only investigate government administrative actions. This unlike the Commission, which can receive complaints about the disability services provision more broadly and offers alternative dispute resolution to resolve NDIS participants', carers' and other service providers' concerns.

## Disability, Violence and Sexual Assault

The Disability Commissioner continued to work with the Domestic Violence Crisis Service (DVCS), Canberra Rape Crisis Centre, Women with Disabilities ACT and the Victims of Crime Commissioner on options to assist women with disabilities escape domestic violence or sexual assault. Women with disabilities experience a range of barriers and accessing family violence and crisis services can be especially challenging.

An outcome of the collaborative work in 2016–17 was the launch of online training to raise awareness and build capacity across the disability, family violence and sexual assault support sectors. The online, self-paced training packages covered:

- Disability Awareness for Domestic Violence and Sexual Assault Workers;
- Domestic Violence Awareness for the Disability Sector; and
- Sexual Assault Education for the Disability Sector.

## Working with ACT Disability Official Visitors

The Commission continued to maintain contact with the Official Visitors for Disability Services. The Official Visitors continued to refer issues of concern to the Commission when informal processes failed to produce positive results. Similarly, the Commission on occasion asked Official Visitors to visit disability group homes after concerns were raised about conditions.



### Home Nursing Care Improvements

A man complained about a care support worker taking financial advantage of him by encouraging a relationship of trust, and accepting significant funds and valuable gifts.

Following the Commission's intervention, the service provider took immediate action and investigated the claims against the employee. The support worker's employment was finalised on grounds of serious misconduct. The service provider also forwarded details about the complaint and investigation to relevant authorities.



### Retirement Village Fees

A man raised concerns about increases in fees at a retirement village and alleged that the retirement village respondent was not acting in accordance with its obligations. The matter was referred to conciliation for early resolution but the parties were unable to reach agreement.

## Public Advocate and Children and Young People Commissioner

### Children and Young People Advocacy and Oversight

The Public Advocate receives information about children and young people's circumstances through a range of statutory pathways, primarily associated with provisions within the *Children and Young People Act 2008* (CYP Act).

During the 2016-2017 reporting period, the Public Advocate reviewed a total of 893 documents in relation to children and young people, and provided individual advocacy on behalf of 279 children and young people.

The Public Advocate visited Bimberi Youth Detention Centre to provide individual advocacy services for 19 young people on 44 separate occasions during the reporting period.

Advocacy activities for children and young people included attendance at court, attending meetings with young people in Bimberi Youth Detention Centre and in residential care settings, and participating in case conferences or Declared Care team meetings.

### Referrals from the ACT Children's Court Magistrate

In 2016-17, the Public Advocate was notified by the ACT Children's Court Magistrate of 13 matters where a young person attended court for criminal proceedings and, due to safety and wellbeing concerns, the Magistrate adjourned the matter for 14 days to allow further investigation by the Director-General from the Community Services Directorate.

The Public Advocate reviewed the referrals and followed up with ACT Child and Youth Protection Services (CYPS) where required, for example due to potential risks for the young person or where the Public Advocate identified concerns about the adequacy of support services.

### Allegations of Abuse in Care (s507 reports)

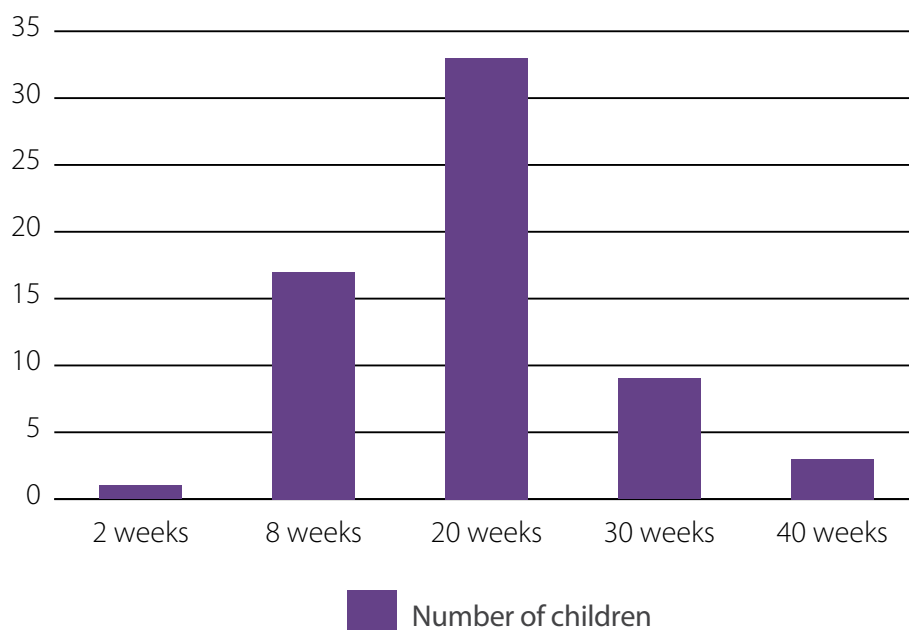
When CYPS undertake an appraisal of an abuse in care allegation for a child or young person in out-of-home care, the CSD Director-General must inform and report the matter to the Public Advocate under section 507 (s507) of the CYP Act. The Public Advocate receives a brief notice from CYPS for each section 507 report.

There were 63 notifications made to the Public Advocate under s507 of the CYP Act in this reporting period. Of the 63 notifications received, 48 of the children were under the age of 12, with 24 children being five years or under.

In the past reporting period, the Public Advocate received s507 reports an average of four months after the alleged incident was reported to CYPS.

While the average time frame for receipt of s507 notifications was four months, there were 12 instances where the delay was over six months, and three matters were reported to the Public Advocate eight to nine months after the allegation was received by CYPS.

**Figure 3: Child and Youth Protection Services Notice of Abuse in Care Allegations**



Due to the life circumstances, trauma backgrounds and vulnerability of children and young people in out-of-home care, it is important to ensure that the child or young person can be adequately supported during the investigation.

The delay in the receipt of s507 reports seriously compromises the ability of the Public Advocate to adequately monitor this area of the child protection system and impedes the timely provision of individual advocacy for children and young people where required.

Further, due to the limited information provided in these reports, often the Public Advocate deemed it necessary to issue a section 879 information request (s879), pursuant to the CYP Act, to ensure a clear understanding about the nature of the circumstances surrounding the report and the outcomes for the child or young person from the appraisal process. The time delays associated with these processes also limit the Public Advocate's ability to advocate for the child/ young person in a timely manner should this be required.

The significance of the Public Advocate's role regarding s507 reports is illustrated by the following example. The Public Advocate received a s507 report that suggested the presenting issue for the children was neglect. The Public Advocate issued a s879 request for further case file material that, upon review, identified a number of concerns relating to sexual abuse. The Public Advocate immediately brought these concerns to the attention of the Director-General. A placement change was subsequently enacted for the children.

To address these concerns, the Public Advocate has begun discussions with CYPS with a view to establishing revised reporting processes.

### **Requests for information under section 879 of the *Children and Young People Act 2008***

In exercising a statutory function under s879 of the the CYP Act, the Public Advocate may ask an ACT child welfare service to provide information, advice, guidance, assistance, documents, facilities or services in relation to the physical or emotional welfare of children and young people.

As highlighted above, the limited information contained in s507 reports in relation to abuse in care has led to a significant increase in the number of occasions the Public Advocate has requested information pursuant to s879 of the CYP Act.

In 2014-15, the Public Advocate made only 14 s879 requests. In 2015-16, this increased to 121 requests. In the current reporting period, the Public Advocate issued 89 s879 requests in relation to 78 children and young people.

CYPS recorded 96 requests having been received from the Public Advocate. Different recording processes led to these discrepancies. The Public Advocate and CYPS have met to discuss this and, in the next reporting period, will work towards a solution for consistent recording of requests. Monthly meetings will also take place to support this and to track the progress of s879 requests.



On reviewing the information received under s879, the Public Advocate will, when necessary, intervene further on behalf of children and young people to ensure due regard for their safety and wellbeing. An example of the way in which advocacy emerging from a s879 request improves outcomes for children and young people is highlighted by the following case example.

Following an application by a child's legal representative for orders on two children (an unusual situation as the CSD Director-General is the usual applicant), the Public Advocate requested information about the matter under s879 of the CYP Act. On review of this information, the Public Advocate identified significant concerns about the children's safety and wellbeing. This resulted in the Public Advocate advocating in support of the children's legal representative's application for the children to be removed to a place of safety (foster care). The Public Advocate informed CYPs of the concerns held and the position being taken in respect of this matter. The Director-General subsequently moved the children to a place of safety.

### Annual Review Reports (s497, s495 reports)

Under s497 of the CYP Act annual review reports of a child or young person's life in care over the preceding year must be provided to the Public Advocate by the CSD Director-General.

Section 495 of the CYP Act requires the CSD Director-General to prepare an annual review report for a reviewable care and protection order at least once every 12 months while the order is in force, or if the order is in force for less than 12 months, when the order expires. Previous legislation was more prescriptive, requiring reporting before the anniversary the order date; in each year the order was in force; and for orders less than a year at least one month before it expired.

In the current reporting period the Public Advocate received 458 reports and reviewed 416.

Annual review reports cover a defined 12-month review period of the child or young person's life in care. While by definition retrospective, the time frames that reports were delivered to the Public Advocate varied considerably during 2016–17.

Annual review reports not received in a timely manner impede the ability of the Public Advocate to undertake meaningful and effective advocacy on behalf of children and young people. While the majority of reports were received within legislatively compliant periods, they may not have provided a contemporary account of the child or young person's circumstances.

Of the 416 annual review reports the Public Advocate reviewed, 31.5% arrived within three months from the end of the review period. But as Figure 4 shows, 33.85% reports were received 4–6 months after the review period; 21.62% 7–9 months after the review period; more than 10% 10–12 months after the review period; and 5.51% were delivered to the Public Advocate 13–16 months after the end of the review period.

**Figure 4: Time frames for Receipt of Children and Young People Annual Review Reports 2016–17**



Annual review reports not received in a timely manner impede the ability of the Public Advocate to undertake meaningful and effective advocacy on behalf of children and young people. While the majority of reports are received within legislatively compliant periods, they may not provide a contemporary account of the child or young person's circumstances when received by the Public Advocate.

The Public Advocate recognises that legislative changes for annual review reports sit alongside changes to the service system stemming from the implementation of A Step Up For Our Kids. But the Public Advocate is concerned to ensure that annual review reports provide a contemporary account of the child or young person's circumstances in care.

The Public Advocate has begun an internal review of existing statutory oversight processes and protocols with CSD and ACT Together that will include time frames for receipt of annual review reports.

### **Emergency action (s408 reports)**

Across the year, 158 children and young people were taken into care following the Director-General taking emergency action. Emergency actions must be notified to the Public Advocate under s408 of the CYP Act and the Public Advocate prioritises attendance at court for these matters.

In 2016–17, the Public Advocate attended court on 102 occasions relating to these matters.

The Public Advocate may actively intervene in matters by requesting adjournments, particularly in cases where concerns exist around the capacity of a parent to understand legal processes and implications of court proceedings. Twice in 2016–17 the Public Advocate applied to the ACT Civil and Administrative Tribunal requesting that consideration be given to appointing a guardian for legal issues and/or for a mental health assessment for a parent.

### **Mandated Reports to Child and Youth Protection Services**

Under s359 of the CYP Act the Public Advocate is a mandated reporter. If a person contacts the Public Advocate and reports a belief or suspicion that a child or young person is being abused, neglected, or is at risk of abuse or neglect the Public Advocate must give the CSD Director-General a copy of the report.

During the reporting period the Public Advocate made 30 s359 reports to CYPs.



Legal and Policy Director Gabrielle McKinnon, Wreck Bay NAIDOC celebrations 2016.

### **Bimberi Youth Justice Centre**

During 2016–17 the Public Advocate maintained a close monitoring role for the Bimberi Youth Justice Centre providing individual advocacy for 19 young detainees on 44 occasions.

The Public Advocate maintained a regular presence at Bimberi with fortnightly to monthly visits that included sharing Friday lunch with young detainees and staff, individual meetings when asked, meeting with young people in segregation and attending the end-of-term assembly at the Murrumbidgee Education and Training Centre.



The Public Advocate's oversight functions for Bimberi involved reviews of segregation, strip search, and use of force registers. Feedback to senior managers highlighted identified concerns or issues.

In 2016–17 there were eight occasions of segregation at Bimberi, six in response to an incident on 11 May 2017. All young detainees segregated in this instance were offered the opportunity to meet with Public Advocate staff and two raised concerns about their access to education while segregated. The Public Advocate discussed this with management and the matter was addressed.

In 2016–17, there were 78 occasions where young people were strip searched, none of which uncovered contraband.

The reasons recorded were:

- induction (40);
- returning from court or leave (8);
- the young person had mental health issues (8);
- for safety and security reasons (7);
- a history of alcohol or drug use or presenting as agitated (4);
- a history of concealing items (4); and
- contraband found in unit (3).

No clear reason was stated for four strip searches.

After a review of the Strip Search Register on 5 April 2017, the Public Advocate raised concerns with Bimberi senior management about a procedure colloquially known as "squat and cough". Following advocacy from the Commission, this practice (previously identified as unlawful in the Commission's 2005 Human Rights Audit of Quamby) was discontinued.

There were 84 occasions when 'use of force' was applied at Bimberi during the reporting period. A review of this register in March 2017 by Public Advocate staff identified a number of issues including an inconsistent use of management counter signatures; the use of a reference numbering system that lacked clarity on the actual number of occasions force was used; and a large number of incidents (15) recorded as occurring on 1 March 2017.

Bimberi management instigated a strategy in response to the Public Advocate's concerns. A second register review on 2 August 2017 showed improvements. Clear evidence of managerial oversight was evident as all documents were countersigned. A new incident record system was implemented to provide greater clarity about when an incident occurred, particularly when a number of staff must report. It was found that the large number of incidents recorded on 1 March 2017 arose from an internal audit that had identified the use of mechanical restraints when escorting young people to outside appointments had not been recorded on some occasions.

In 2017-18, the Public Advocate will pilot changed review practices by cross-referencing the Use of Force Register with a random sample of incidents recorded on CCTV.

### **Service Development and Improvement in Care and Protection**

The Public Advocate held individual monthly meetings with ACT Together, and additional monthly meetings with Uniting and Premier YouthWorks (PYW). The meetings with PYW also include the Official Visitors who have a monitoring and visiting role within residential care settings. These meetings built on a collaborative working partnership and consolidated the Public Advocate's oversight functions.

As part of this work the Public Advocate raised a number of concerns around the standard of care and safety within particular residential care houses and the adequacy of the matching and assessment process when children and young people were placed together.

Due to significant safety issues being identified in one residential care house, ACT Together reviewed the placement and developed and implemented safety plans and a strategy to support placement change over a three-week period. In advocating for improved outcomes, the Public Advocate also brought concerns about this placement to the attention of the young person's legal representative, which saw the ACT Chief Magistrate request updated affidavits and care plans before making final orders in the matter.

In the next reporting period the Public Advocate will continue to focus on matching processes for placing young people together in residential houses.

### **After Hours Interview Friends Program**

In 2016-2017, the Public Advocate completed the transfer of the After Hours Interview Friends Program to Anglicare. The Public Advocate continued to work with Anglicare and the Aboriginal Legal Service to support the program, provide training and support for new recruits, and refresher training for ongoing volunteers.



## Mental Health/Forensic Mental Health Advocacy and Oversight

A key role for the Public Advocate under the *Mental Health Act 2015* is consumer-focused oversight. To achieve this, the Public Advocate draws on systemic trends that are identified through individual advocacy and through review of mental health documentation and processes.

Issues emerging this year included use of seclusion and the lack of adherence to legislative requirements (as evidenced by the registers held on site and also reflected in complaints received from consumers), consumers experiencing multiple readmissions in short periods of time, compliance with time frames for assessments on emergency actions, and poor quality treatment plan documents.

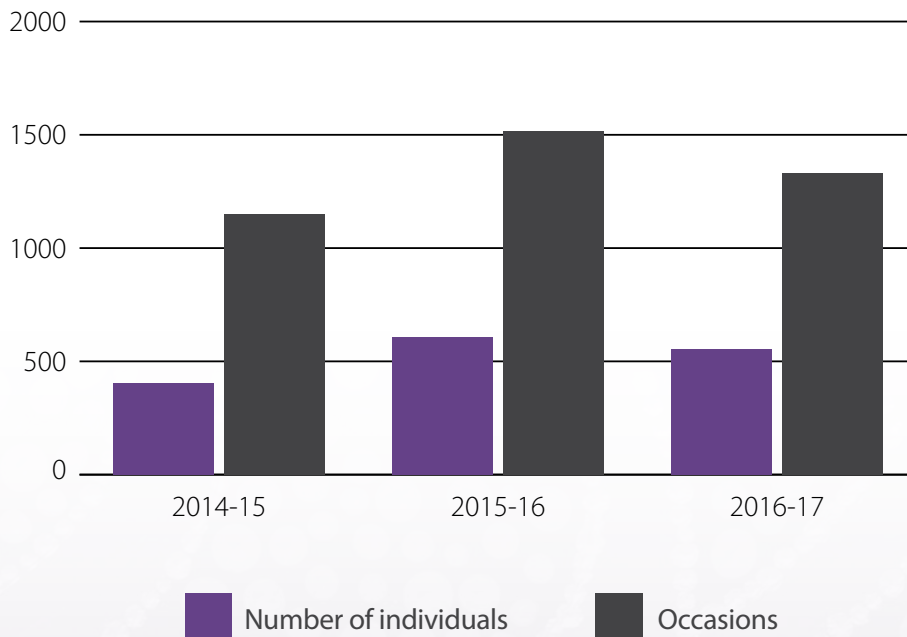
The Public Advocate participated in the Mental Health Implementation, Evaluation and Monitoring Committee chaired by the Chief Psychiatrist. The Public Advocate also attended a series of workshops on the formal evaluation of the *Mental Health Act 2015*. Individual advocacy, visits to facilities and the review of mental health notifications by the Public Advocate inform its contribution to these processes.

### Individual Mental Health Advocacy

During 2016–17, the Public Advocate provided 1,331 occasions of individual advocacy for 553 individuals who had contact with mental health and/or forensic mental health systems.

This included the provision of individual advocacy for 432 adults with mental illness on 985 occasions and for 67 people involved with forensic mental health services on 240 occasions. The Public Advocate's intervention achieved a wide range of outcomes, including tackling concerns about mental health treatment, care and support, and ensuring the new *Mental Health Act 2015* was being applied appropriately. Advocacy was also provided to ensure equitable access to legal advice, housing and other services.

**Figure 5: Individual Mental Health Advocacy 2014-2017**



Advocacy activity for mental health consumers declined 9% in 2016–17 compared to the previous year due to a focus on high-priority consumers presenting with significant issues that affected, or may affect their human rights.

A lack of access to housing resulted in longer hospital stays or detention for a number of mental health consumers. Some had experienced longer-term homelessness, others become homeless due to family breakdown or care arrangements, squalor or hoarding, or being forced to vacate their properties. Individual advocacy focused on highlighting the urgent need for housing that meets the unique needs of these mental health consumers.

Significant individual advocacy occurred around the difficulties experienced by mental health consumers involved in child protection and legal systems. The Public Advocate supported consumers to understand and navigate the systems by providing information on processes, assisted with access to legal advice, and to understand options and make informed choices.

ACT Child and Adolescent Mental Health Service and Public Advocate staff met weekly to discuss vulnerable young people receiving mental health care and treatment. The Public Advocate made contact with all young people admitted to hospital and, in matters that were more complex, also met with family or carers.

During the reporting period the Public Advocate advocated for 54 young people experiencing mental health concerns on 106 occasions and for 42 young people in inpatient mental health facilities on 61 occasions.

### Increased Visits to Mental Health Facilities

In performing its oversight functions, the Public Advocate made weekly to monthly visits to ACT public mental health facilities according to client group needs. This included regular visits to the ACT's new secure mental health facility Dhulwa, Canberra Hospital's Adult Mental Health Unit and Calvary Public Hospital's Ward2N.

The Public Advocate met with 160 individuals on 244 occasions during these visits, sometimes visiting people multiple times. This was almost double the number compared to 2015–2016 when 88 people were visited on 126 occasions.

The Public Advocate regularly visited the Alexander Maconochie Centre (AMC), including advocacy clinics at the AMC Special Care Unit and individual meetings with detainees as requested. Visits to mental health consumers or people with disability detained at AMC more than doubled in 2016–17 compared to the previous year with 32 detainees meeting with the Public Advocate throughout the year. Women made up 32% of detainees accessing advocacy support.

**Table 13: Visits to People in Mental Health Facilities**

Reporting period	Number of people visited	Number of Visits
2014-15	120	169
2015-16	88	126
2016-17	160	244

### Notifications Under Mental Health and Guardianship Legislation

The Public Advocate receives notifications from mental health services, health care professionals, and the ACT Civil and Administrative Tribunal (ACAT) under the *Mental Health Act 2015* and the *Guardianship and Management Act 1991*.

During the reporting period 5,434 notifications were received for 1,140 people – 500 fewer notifications for the same number of people compared to last year. This may reflect the *Mental Health Act 2015*'s intention to reduce involuntary actions.

Notifications were reviewed for compliance with legislation and human rights, to identify individuals needing advocacy, and analyse and identify emerging systemic trends.

One emerging trend indicated some mental health clients presented regularly with serious suicidal ideation but were discharged from hospital within a short period. The Public Advocate will continue to monitor this issue, including the adequacy of mental health supports for these consumers once discharged.

Other systemic issues, such as the adequacy of treatment plans and their lack of detail, patterns of repeated emergency detentions, and a paucity of services for consumers presenting with borderline personality disorder, are also of interest to the Public Advocate.

At Canberra Hospital Adult Mental Health Unit and Calvary Public Hospital Ward2N Public Advocate staff participated in group meetings to which all consumers were invited. The meetings provided consumers with opportunities to hear about their rights, *Mental Health Act 2015* provisions to enable consumers to plan in advance, and to learn about the Commission, including the role of the Public Advocate. During the year 325 mental health consumers attended 41 group meetings.

Concerns were raised during Canberra Hospital Adult Mental Health Unit group meetings and individually about a reduced number of therapeutic and recreational activities. People advised this had a detrimental impact on their wellbeing. After the Public Advocate raised this with the Adult Mental Health Unit and Chief Psychiatrist, the range of activities in the therapeutic group program increased from 14 a week in March to 27 by May.

The Public Advocate also identified a number of the people initially transferred to the ACT's new secure mental health facility Dhulwa who were unclear about why they were transferred and uncertain about the treatment, care and support they would receive. Individual and systemic advocacy by the Public Advocate highlighted the need for information to be provided to consumers in ways they could understand. Public Advocate staff initially met with clients to discuss their concerns and provide advocacy support directly. The issues were then raised at treatment team and service planning meetings to facilitate change benefiting all clients. The Public Advocate was pleased to note that Dhulwa residents now participate in regular case discussions and recovery-focused care planning meetings.

## **Involuntary Detention**

Monitoring involuntary detention processes was a key focus area in 2016–17. The Public Advocate reviewed all applications for mental health orders to determine if having the Public Advocate attend a hearing would better support the person, ensure their voice was heard and promote greater realisation of consumer rights. As part of hearing notifications ACAT advised clients they could contact the Public Advocate for assistance and support.

Advocates attended 273 hearings for 211 individuals in addition to 22 hearings for people under forensic mental health. This was a 139% increase from last year, reflecting the Public Advocate's aim of ensuring the legislative principles for mental health consumer rights were upheld.

## **Complex Needs/Disability Advocacy and Oversight**

The Public Advocate provided advocacy for 79 individuals with complex disability support needs on 328 occasions in 2016–17. Advocacy targeted concerns including a lack of suitable accommodation, poor or inadequate support, inconsistent supports, and difficulties interacting with and negotiating systems such as the National Disability Insurance Scheme (NDIS) and Aged Care.

A high proportion of individuals referred for advocacy assistance were either NDIS participants or individuals engaged with Aged Care Assessment Teams. Advocacy support tackled concerns identified by the individuals, their family or by their support services.

To facilitate the provision of timely and responsive advocacy, the Public Advocate visited the Brian Hennessey Rehabilitation Centre and the Older Persons Mental Health Service monthly and on request.

The Public Advocate also instigated a schedule of visits to non-government and private organisations providing services to children, young people and adults with complex disability support needs. This raised the profile of the role and the functions of the Public Advocate among service providers in disability and other sectors and helped establish improved communication and referral pathways with those organisations. It also encouraged people residing in or accessing those services to approach the Public Advocate directly with concerns.

## **Management Assessment Panel Coordination**

The Public Advocate coordinates the ACT Management Assessment Panel (MAP), a voluntary service that fosters the provision of services and facilities for people with complex and intensive support needs by coordinating case management and other service responses by relevant lead agencies.

MAP is a service of last resort that exists to facilitate the coordination of case planning and service provision for people whose complex service needs are poorly coordinated or not adequately met. MAP accepts referrals for children, young people and adults with a disability. Referrals are premised on the existence of complex and challenging service provision needs and presenting risks for the person. Following referral assessments, MAP identifies service needs, negotiates service provision and ensures it is coordinated, and convenes panels with key stakeholders to resolve issues of concern when required.

The Public Advocate reviewed MAP in 2015–2016 and considered how best to ensure MAP's ongoing value for children, young people and adults with complex disability support needs. In 2016–2017 the Public Advocate actively worked to raise awareness of the MAP process and potential benefits for individuals with complex support needs where service coordination was inadequate.

During 2016–2017, MAP received more referrals than in the previous reporting period. Four clients were referred and seven conferences convened. Significantly, there were 37 occasions of advocacy provided in the reporting period relating to MAP client issues that were identified directly by individuals with complex support needs and/or their family or support agency. The matters included a lack of suitable accommodation, poor or inadequate service/support coordination and difficulties interacting with and negotiating service systems. All individuals accessing MAP in this reporting period were NDIS participants.

Intervention through MAP has the potential to generate significantly improved outcomes for people who, otherwise, would continue to 'fall through the cracks' as a result of poor or inadequate coordination of necessary supports. For example, MAP intervention identified a suitably modified home for a client that would allow them to live with a family member with whom they had a longstanding and significant relationship. Before the MAP intervention this had not been possible due to the individual's disability and the unsuitability of the family member's accommodation. The client had been living in shared accommodation with another client; however, although supports were provided by an NDIS registered provider, the placement did not adequately meet the client's needs.

In another case, a referral was made to the Public Advocate from the Victims of Crime Commissioner. The Public Advocate identified that the client's family placement was at high risk of breaking down and referred the case to MAP. Following MAP's involvement, the client was able to access more coordinated support and secured an accurate diagnosis that



assisted in further developing their NDIS care package. The client and their family members felt more supported and the additional supports put in place for this client have seen a reduction in their need to use behaviours that were difficult for the family to manage and that could have led to an admission into care.

### ACT Care Coordinator

The Public Advocate's Senior Advocate, Complex Needs/Disability also acts as Executive Officer to the ACT Care Coordinator, a statutory appointment of the Minister for Health under Section 204(1) of the *Mental Health Act 2015*. As such, the Commission provides administrative support to the Care Coordinator, amounting to approximately 20% of the Senior Advocate's work.

The Senior Advocate performed 141 administrative functions for the Care Coordinator related to Community Care Orders (CCOs) in 2016-2017.

The Care Coordinator is responsible for coordinating the provision of treatment, care or support for a person with a mental disorder for whom a community care order applies or a forensic community care order is in force, for example, CCOs and Forensic Community Care Orders (FCCOs), and Restriction Orders. ACAT makes CCOs and FCCOs where it determines they are necessary for the treatment, care and support of vulnerable people who have disturbances of behaviour associated with disorders of the mind such as dementia, intellectual disability, acquired brain injury, personality disorders, and degenerative neurological disorders.

From 1 July 2016 to 30 June 2017, eight people, comprising six men and two women, were subject to a CCO. Four new CCOs were made in the reporting period. For the eight people subject to CCOs, one was referred by the courts and the remaining seven were referred by clinical services. Three people placed on CCOs had an intellectual disability, two had complex and challenging behaviours, dementia was the reason one person was subjected to a CCO, another had a neurological disorder other than dementia and one had an eating disorder. No FCCOs were made during the reporting period.



The 2017 Multicultural Festival was a chance for the Commission to ask what diversity meant to Canberrans.

## Family/Personal Violence Advocacy and Oversight

The *Family Violence Act 2016* and *Personal Violence Act 2016* allow young people and people with impaired decision-making to access support in court proceedings. Under the legislation, the Court may notify the Public Advocate about such a matter. The Public Advocate was notified about matters relating to 99 individuals in 2016–17. Of these 43 were children or young people; 46 were adults identified as having either a mental illness or disability; and 55% were male.

The Public Advocate reviewed the documents sent by the Court and identified if there was anyone involved in the person's life who could represent or assist them, such as a parent, litigation guardian or guardian.

For children and young people parents usually fulfil this role. The Public Advocate contacted parents and, where needed, provided information and support to them.

For adults, the Public Advocate considered whether individual advocacy would assist the person to progress the matter or, in limited circumstances, whether an application for a guardian/litigation guardian would be appropriate. In making these enquiries, the Public Advocate sought to identify the least restrictive option that would uphold the person's rights. In 2016–2017, most adults required no direct involvement. Some adults needed individual advocacy and in a small number of instances a guardianship application was progressed.

In 2016–17, the Public Advocate identified that court orders may result in respondents with mental illness or disability losing their place of residence, such as in cases where respondents live at the same residence as applicants and the order conditions require them to leave. In 2017–2018, the Public Advocate will consider how best to ensure adults with a mental illness or disability can be supported through these processes and review the broader implications for this group. In addition, the Public Advocate will review whether additional advocacy support is required for children and young people involved in court proceedings.

## Victims of Crime Commissioner

On many occasions during 2016–17, the Victims of Crime Commissioner used a legislative function that allows the Commissioner to try to resolve victims' concerns about justice agencies not complying with the VoC Act's governing principles. The principles, as far as practicable, govern the treatment of victims.

The Commissioner attempted to resolve concerns about:

- reputational damage to deceased victims and their families' right to privacy. Defamation law does not protect deceased victims from attacks on their reputation causing considerable distress to their families and often media invasions of their privacy;
- the limited nature of the information made available to a victim who was registered on the ACT Victims Register and who wished to make a submission to the Sentence Administration Board regarding a parole hearing. The victim was refused information relating to an offender's commitment to rehabilitation programs when in custody;
- a lack of publicly available information about Corrective Services' detainee management policy – information publicly available in NSW;
- barriers to accessing income protection/life insurance when victims seek counselling for a traumatic crime;
- poor attitudes and ignorance of the effects of crime displayed by people engaged in justice agencies;
- a lack of information provided to victims on the progress of police investigations and ACT Magistrates Court hearings and sentencing dates;
- limited opportunities for victims to prepare and deliver Victim Impact Statements in the ACT Magistrates Court;
- a lack of communication and coordination between justice agencies and delays in finalising Domestic Violence Order proceedings;
- an absence of any legal provision within the ACT criminal justice system entitling a victim of crime to participate in decision making; and
- personal health records being subpoenaed, produced, inspected, copied and divulged to third parties. This creates a barrier to victims accessing assistance from health professionals.

Occasionally the Commissioner advocated for individuals on other relevant issues. VSACT also engages in individual advocacy to help victims access services on an 'as needs' basis.

Victim Support ACT

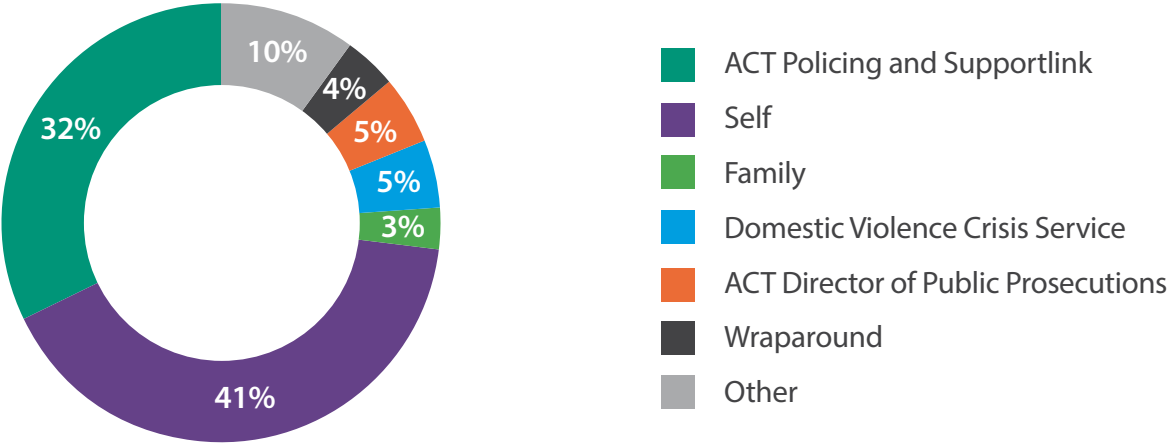
Victim Support ACT’s (VSACT) multidisciplinary health professional team:

- assesses eligibility and suitability for a range of support services;
- provides therapeutic interventions with referral to other service providers as appropriate;
- works with clients to restore a sense of health and well-being in their recovery from the impact of crime; and
- assists clients to navigate the criminal justice system.

The majority of referrals to VSACT continued to come from ACT Policing through Supportlink. However, referrals from ACT Policing and Supportlink as a percentage of total referrals fell by 5% in 2016–17 compared to the previous year, and 8% against 2014–2015.

Meanwhile, self-referrals increased by 8% compared to last year and 13% in 2014–2015, indicating investments in improving VSACT’s website and increasing its public profile have successfully raised awareness of victim’s rights and support services in the ACT.

Figure 6: VSACT Referral Sources in 2016-2017



Consistent with data from previous years, the vast majority of VSACT clients were female (see Figure 7). This is consistent with the high recorded rates of family and domestic violence victimisation in our community and the intensive support required for these victims.

Figure 7: VSACT Clients by Gender

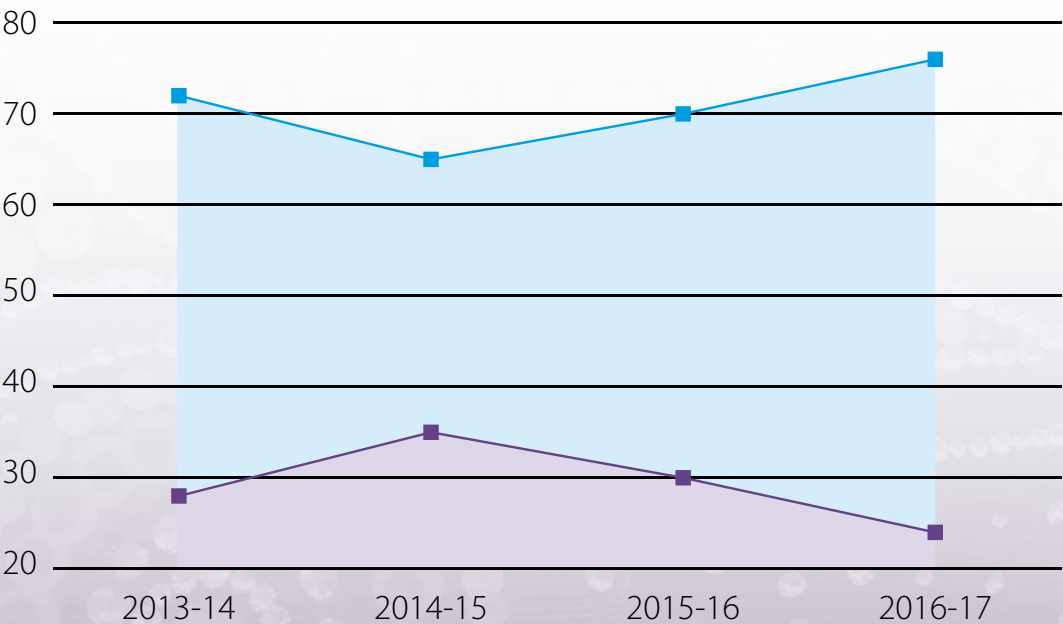




Figure 8 highlights the cultural diversity of clients accessing services in 2016–17. Most VSACT clients did not identify as either Aboriginal or Torres Strait Islander or culturally and linguistically diverse.

Evidence suggests that Aboriginal and Torres Strait Islander people are more likely to experience crime. This group made up 5% of the client profile, indicating that Aboriginal and Torres Strait Islander communities were under-served. VSACT has an ongoing commitment in the Aboriginal and Torres Strait Islander Justice Partnership Agreement 2015-18 and the JACS Reconciliation Action Plan 2016-19 to provide more services to Aboriginal and Torres Strait Islander victims of crime. In recognition of this, and in an effort to improve accessibility of our service to these communities, VSACT will employ an Aboriginal and Torres Strait Islander victim liaison officer in 2017 to improve connections with the community, raise awareness of the services offered and increase the uptake of VSACT services.

Figure 8: Client Diversity



Figure 9 shows that family and domestic violence comprised the majority of offences against female clients over 18 years of age. In contrast the majority of offences against male clients over the age of 18 were not family and domestic violence-related (Figure 10).

Sexual assault was the main offence for both males and female clients under 18.

Figure 9: Breakdown of Female Victims by Age at Incident and Type of Offence

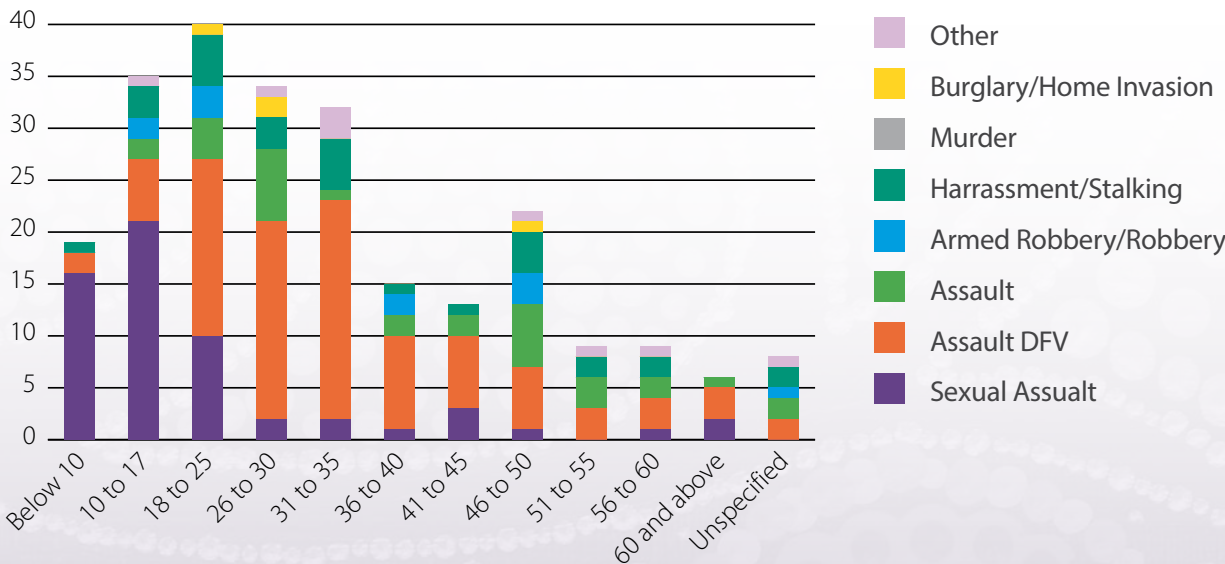


Figure 10: Breakdown of Male Victims by Age at Incident and Type of Offence

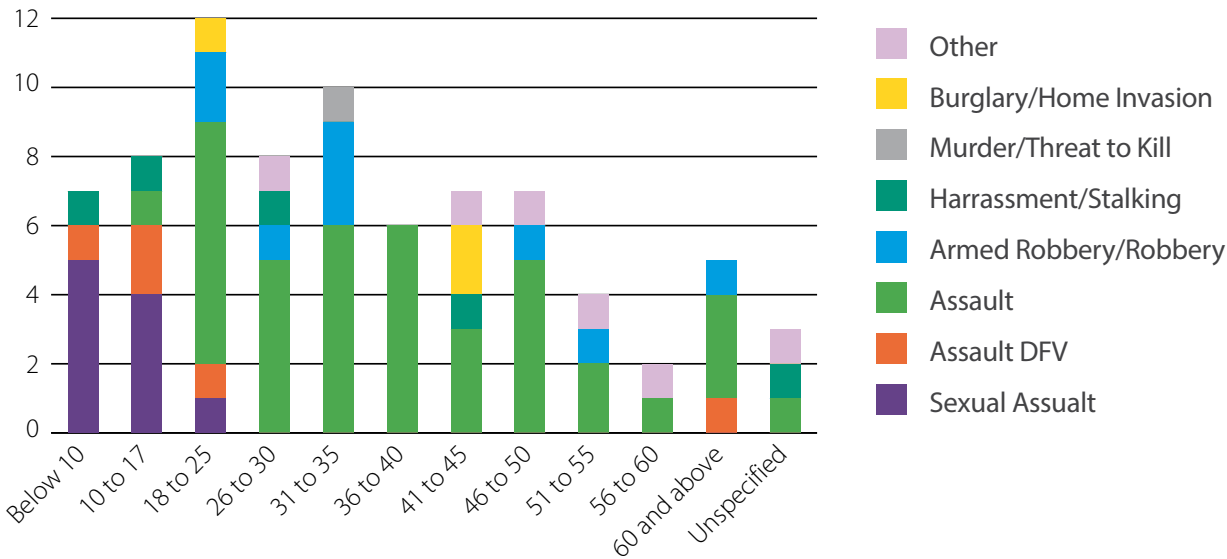


Figure 11 shows the overall breakdown of clients' relationship to the offenders. Only a relatively small percentage (24%) of crime was committed by offenders unknown to the victim. Forty-four percent of offenders were family members, partners or ex-partners. This was congruent with high rates of family violence victimisation.

However, it was not just victims of family violence that primarily experienced crimes perpetrated by people known to them. Figure 11 shows that in a relatively small proportion of cases offenders were unknown to victims across all offence categories, except assault (non-family and domestic violence) burglary, robbery and related offences, and other offences.

Figure 11: Victim Relationship to Offender

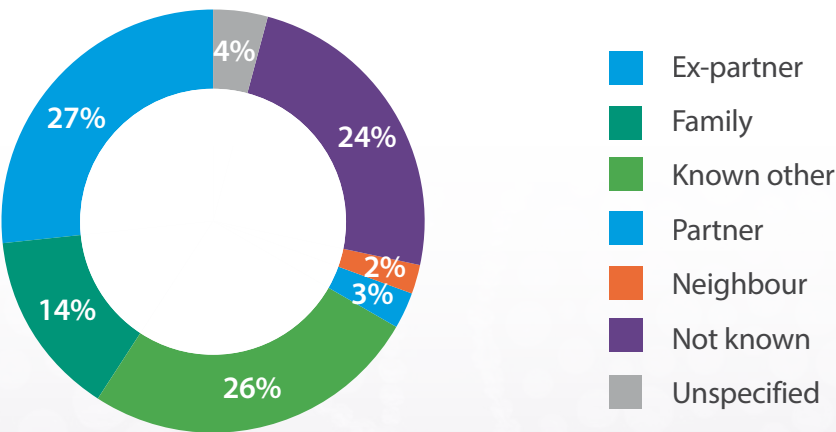


Figure 12: Relationship to Offender According to Offence Type

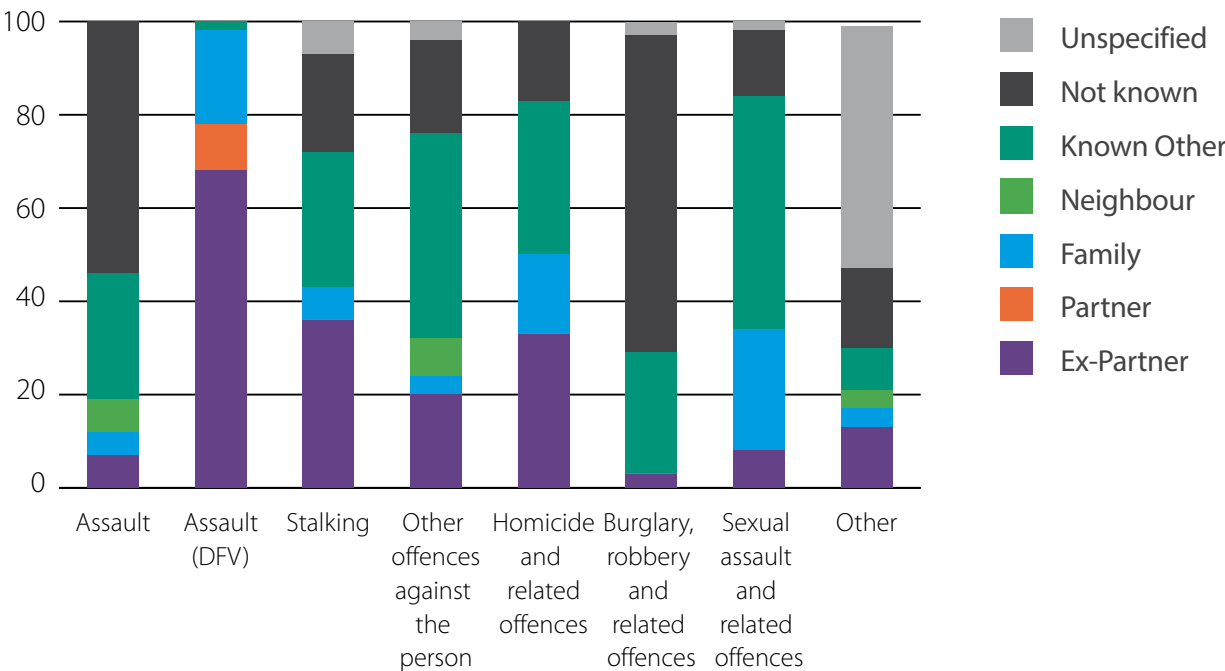
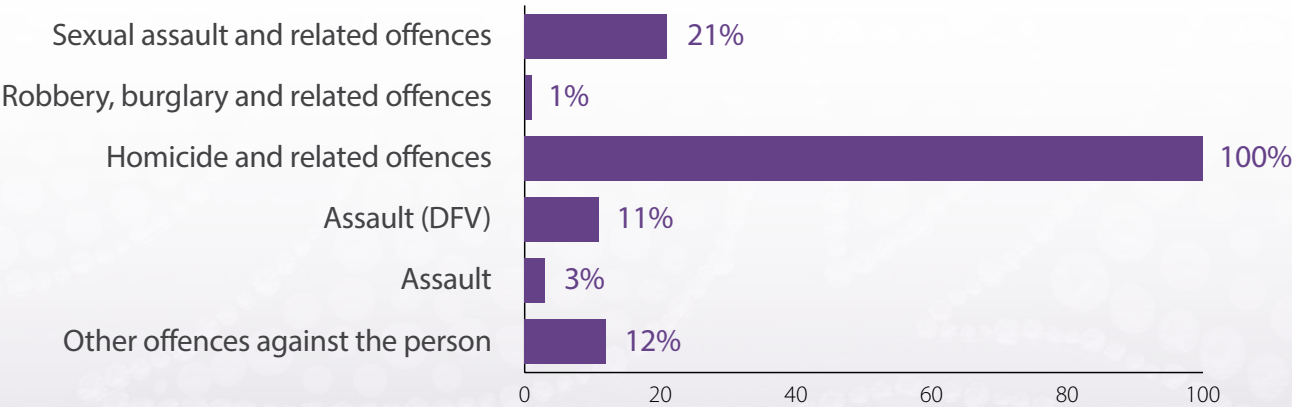


Figure 13 indicates that victims of homicide, sexual assault and related offences, and family and domestic violence were the most likely to seek support from VSACT.

VSACT is one of many services in the ACT that assist victims of crime. Many victims seek support from other services, or may not seek or require any assistance. The effects of crime and the type of support needed vary widely from victim to victim.

It is also important to note that many victims may not seek help immediately. There is no time limit associated with seeking support from VSACT, and in many cases victims seek assistance several years after a crime has occurred. This is especially common for victims of historical child sexual assault where on average it takes 22 years for abuse to be first disclosed.<sup>2</sup>

Figure 13: Victims Engaged With VSACT as a Percentage of Total Offences Occurring in the ACT



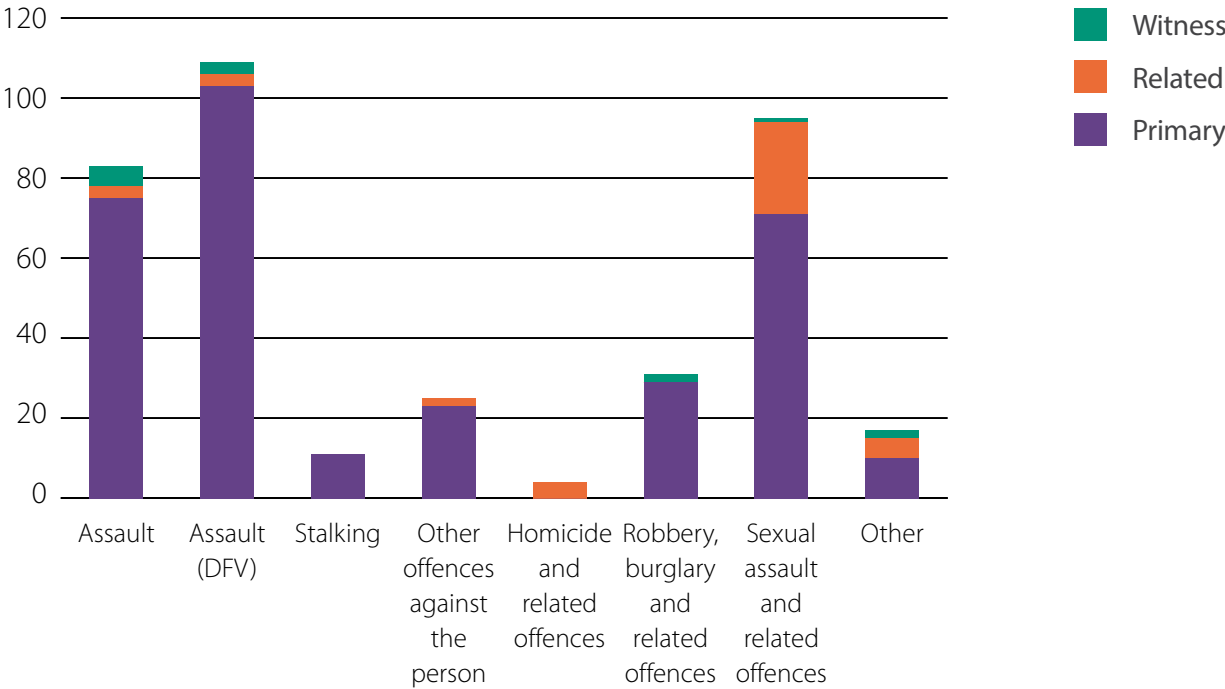
2 [www.childabuseroyalcommission.gov.au/about-us/our-reports/interim-report-html/executive-summary](http://www.childabuseroyalcommission.gov.au/about-us/our-reports/interim-report-html/executive-summary)



The overwhelming majority of victims seeking VSACT support were primary victims – those that experienced harm or injury as a direct result of being the victim of a violent crime. However, VSACT also offered assistance to related victims and witnesses.

The offence category where VSACT supported the largest number of related victims was sexual assault and related offences (Figure 13). These clients were primarily parents or carers of victims of child sexual assault, including historical child sexual assault.

Figure 14: Breakdown by Type of Crime and Type of Witness



Victims of Crime Commissioner John Hinchey and HRC President Dr Helen Watchirs joined other Commissioners and staff on the Sorry Day Walk, May 2016.

## VSACT Client Survey

VSACT began work on strengthening its monitoring and evaluation of client services in 2016–17. A client feedback survey was distributed to 95 randomly selected clients in April 2017. Thirty-eight (40%) survey recipients completed the (quantitative and qualitative) survey.

Eighty-seven percent of survey respondents rated their satisfaction with the service as high. Ninety-seven percent said they would recommend the service to others.

Survey respondents said they wanted more frequent contact with service staff and suggested VSACT needed to improve the accuracy and consistency of communication especially about:

- service eligibility;
- services provided;
- handovers between case managers;
- checking clients' understanding of information; and
- waiting times and processes.

VSACT provided all survey respondents with a summary of analysed results and offered them the opportunity to provide further anonymous feedback.



### Victim Support ACT Volunteer Program Clients Say 'Thanks'

VSACT client kindly offered the Commission the testimonials below about their experience of the service.

"Thank you so much for all the support, it truly has been amazing and such a breakthrough experience for me! I'm overwhelmed with all the support from everyone, I really commend the work yourself and your colleagues do. Many, many thanks."

"I wanted to say a big thanks to the volunteer for her support this week during the trial that my daughter had to give evidence at ... The volunteer was able to support me and in turn I was able to support my daughter which made the process a bit better. It is a wonderful service and once again I thank you and the volunteer for the support."

"Thank you so much for everything you have done for me for this application, you have been just totally great. Thank you."

"Thank you for your help with everything."

"Thank you for all your help you have been fantastic."

Volunteers also told us why they offer their time to the program.

"I really enjoy my volunteering with Victims – you have turned it into a really good and worthwhile program!"

"I have decided not to continue my other volunteering as this is now fulfilling my needs where it didn't before."

## VSACT Financial Assistance Scheme

On 1 July 2016, Victim Support ACT (VSACT) began operating a new Financial Assistance Scheme (FAS) for victims of crime. The roll-out of the new program within VSACT has been a major highlight of 2016–17.

The new scheme is governed by the *Victims of Crime (Financial Assistance) Act 2016* (the VoCFA Act) replacing the scheme that operated under the repealed *Victims of Crime (Financial Assistance) Act 1983*. The new Act followed a major review that recognised a need for a more user-friendly approach available to a wider range of victims. VSACT and the Victims of Crime Commissioner worked closely with the JACS to design the new scheme.

The FAS provides financial assistance to victims of crime as part of the ACT community's recognition that crime takes an enormous physical, financial and emotional toll on its victims. Its purpose is to assist victims of crime recover from violent acts, contribute to the victim safety and prevent future acts of violence, acknowledge the wrong done to people and complement other services provided for victims of crime.

The new scheme recognises a wider range of victims than the previous scheme, provides greater transparency of decision-making and timelier responses to applicants.

Applications under the new scheme are assessed by the Victims of Crime Commissioner, rather than submitted to the ACT Magistrates Court as previously. Applications can be made for acts of violence that occurred on or after 1 July 2016.

During the 2016–17 financial year, 108 applications for financial assistance were received. This equated to an average of nine applications a month.

The majority of applications were from men (53%). No specific data was collected to show why more applications were received from men than women (47%).

Of all FAS applications received during 2016–17, 22% were from victims of family or domestic violence. Five percent were made on behalf of victims of crime under 18 years.

Of all applications received, 22% were made by serving members of ACT Police assaulted during the course of performing their duties. This was the only occupational group monitored during 2016–17.

Monitoring of other vulnerable groups during 2016–17 found 5% of FAS applications were from culturally and linguistically diverse people, 3% from members of the Aboriginal and Torres Strait Islander community and 2% from people with a disability. The Commission is committed to further raising awareness of the FAS among vulnerable communities in 2017–18.

The VoCFA Act recognises and provides financial assistance for 'non-violent domestic violence offences', such as destroying or damaging property; arson and trespass; driving offences; offences involving offensive weapons; and contravention of family violence protection orders.

Recognising that some victims of crime may not report to police, the VoCFA Act also acknowledges 'special reporting class victims'. They may be a primary victim:

- of a sexual offence;
- of an offence in which the person responsible for the act of violence against the primary victim was in a position of power, trust or authority;
- with impaired physical, psychological or intellectual capacity;
- under 18 years when the act of violence occurred; or
- that did not report the act of violence to police because of threats or intimidation.

The tables below provide a breakdown of various types of FAS payments throughout the year.

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

**Table 14: FAS Immediate Need Payments in 2016–17**

Type of immediate need payment	Number of payments made	Amount of payments made
Cleaning the scene of a homicide	0	\$0
Measures for personal security of a victim	4	\$3,879.30
Relocation for personal security of a victim	6	\$4,800.61
Emergency medical costs and related services that would contribute to victim's recovery	5	\$1,768.90



Economic loss payments cover economic losses sustained as a result of an act of violence. The FAS was designed to complement other victims of crime services and incorporate direct payments to providers and reimbursement to applicants for out-of-pocket expenses after receipt of rebates or financial support from other services, for example, Medicare Australia, private health funds, workers compensation. There were 47 economic loss payments totalling \$23,044.93 made during 2016–17.

**Table 15: FAS Economic Loss Payments in 2016–17**

Types of economic loss payments	Number of payments made	Amount of payments made
Expenses for counseling or other psychological support	2	\$642.80
Expenses, other than legal costs, incurred in making the application	3	\$257.27
Medical and dental expenses	24	\$9,178.26
Travel expenses	5	\$3,004.61
Justice-related expenses	2	\$925.40
Loss of actual earnings (including loss of earnings incurred by a parent or carer of a primary victim)	4	\$7,250.54
Reasonable expenses incurred by the parent or carer of a primary victim	0	\$0
Other expenses in exceptional circumstances	2	\$992.88
Loss of or damage to personal items	5	\$793.17

Recognition payments are lump sums that acknowledge trauma suffered by victims of violent crime. Payment amounts are prescribed by the VocFA Regulation and amounts can be increased where one or more circumstances of aggravation exist.

There were 47 recognition payments totalling \$150,250 made during 2016–17. Of those, 12 payments had ‘circumstances of aggravation’ applied in recognition of the effects of serious injury, the circumstances of the act of violence or vulnerability of the victim at the time. Five payments in this category recognised that two or more circumstances of aggravation applied for an offence carried out by a person acting in company and use of an offensive weapon, and seven had one circumstance of aggravation applied for the offence being carried out by a person acting in company.

**Table 16: FAS recognition payments by offence type in 2016–17\***

Type of Offence	Number of Payments Made	Amount of Payments Made
Assault occasioning actual bodily harm	15	\$34,000
Common assault	13	\$13,250
Recklessly or intentionally inflict grievous bodily harm	4	\$38,000
Act of indecency without consent	3	\$6,000
Assault occasioning grievous bodily harm	3	\$28,000
Act endangering life	2	\$5,500
Sexual intercourse without consent	2	\$16,000
Threat to kill	2	\$4,500
Act endangering health	1	\$1,000
Aggravated robbery	1	\$2,000
Threat to inflict grievous bodily harm	1	\$3,000

\*Not all recognition payments have been identified due to privacy reasons.

Under the VocFA Act there are 'disqualifying circumstances' in which financial assistance must not be given to ensure the scheme benefits victims of crime, not criminal conduct.

Disqualifying circumstances applied to eight FAS applications in 2016–17, six for lack of evidence an offence had occurred, one because the applicant had instigated the altercation that led to injury and one for lack of evidence of injury.

The VocFA Act expects offenders to contribute to the cost of the FAS. However, before acting to recover costs from offenders, the Victims of Crime Commissioner must take into account certain factors to ensure a victim or any other person's safety or welfare is not compromised. Cost recovery is not pursued in family and domestic violence matters because of the inherent risk to personal safety it could pose for victims.

The Commissioner issued four recovery intention notices in 2016–17 but no offender contributions were recovered.

### **VSACT Volunteer Program**

VSACT's Volunteer Program provides practical assistance and support to victims of crime in the ACT by a team of appropriately screened, trained and dedicated volunteers. It is administered as part of the Victim of Crime Commissioner's functions under section 22(j) of the Victims of Crime Regulation 2000.

The program complements services provided by VSACT case managers. Clients benefit from the broad range of skills that volunteers bring, and their greater diversity of age, and cultural and social backgrounds.

Volunteer support to victims of crime includes:

- court support (Court Companion Program);
- assistance with Financial Assistance Scheme applications;
- assistance applying for police reports;
- support while going to court to find out about and apply for Family Violence and Protection Orders; and
- support at Director of Public Prosecution (DPP) and police meetings.

Program volunteers also provide administrative support to the program.

In 2016 a decision was made to deliver the Volunteer Program in-house, rather than through an external agency, to increase its link to other services provided by VSACT and for financial efficiency. As part of the change, the Commission created a dedicated full-time Volunteer Coordinator to develop and maintain the program.

A number of changes have been made to the program since it shifted to the Commission to increase its value to our clients. These changes have included:

- improved communication between the Volunteer Program and VS ACT case managers;
- streamlined referral pathway so clients could access assistance without the need to fill in forms or make formal referrals;
- increased awareness of the program and stronger relationships with stakeholders increasing the number of external referrals; and
- volunteers given increased and more diverse opportunities to provide support, ensuring their contribution was interesting and engaging and provided them with more skill development opportunities.

The changes contributed to a significant increase number of clients assisted and the number of volunteer hours provided in 2016–17 compared to the previous year.

The program began operating as part of the Commission from September 2016. The tables below reflect those arrangements.

During the transition phase (13 August–13 September 2016) the Volunteer Program was unable to provide support and assistance to clients, however, VSACT Case Managers supported clients. No new volunteers were recruited during the transition period.

Also note that limited data relating to the period before the program moved to VSACT is available, therefore most of the data below reflects the period 13 September 2016–30 June 2017. Relevant data available prior to 13 September has been included.

**Table 17: Volunteer Participation**

Measure	13 September–30 June 2017
Volunteers that transitioned with the program	5
Volunteer expressions of interest	21
Volunteers accepted	7
Volunteers yet to be accepted/declined	3
Volunteers declined <sup>1</sup>	11
Volunteers resigned	2
Volunteers that attended induction training	12
Volunteers that attended volunteer meeting	4
Volunteers completing non-compulsory external training <sup>2</sup>	4

1 Volunteers were declined for the following reasons: their resume was not provided; they did not provide contacts for references; references did not return VS contact; the application form was not returned; they did not meet the program requirements.

2 In 2017, volunteers were offered free first aid training by St John's Ambulance ACT through the Commission's partnership with Volunteering and Contact ACT. One volunteer also attended training in restorative justice to address adolescent sexual offending.

**Table 18: Volunteer Court Support**

Measure	2015-2016	13 Sept 2016–30 June 2017
Referrals received	No comparable data	136
Number of clients assisted/supported	59% increase	43
Number of occasions	66% increase	68
Number of face-to-face volunteer hours	No comparable data	204.5

**Table 19: Volunteer Support at FAS Conferences**

Measure	13 Sept–30 June 2017
Referrals received	12
Number of clients assisted/supported	7
Number of hours face to face from volunteers	15



**Table 20: Volunteer Assistance with FAS Applications**

Measure	2015-2016	13 Sept 2016–30 June 2017
Referrals received	No comparable data	50
Number of clients assisted/supported	43% increase	30
Number of volunteer face to face hours	73% increase	63
Client did not attend appointment	No comparable data	10

**Table 21: Other Volunteer Program Assistance**

Assistance	13 September–30 June 2017
Assistance to call police	2
Assistance to attend and make a police report	1
Opening a private room during a trial <sup>3</sup>	1

- 3 When there are trials on in the Supreme Court the Volunteer Program opens up a private room in the Magistrates Court for the family and friends who are giving evidence and providing support to one another. Section 4 (h) of the *Victims of Crime Act 1994* states that *a victim should be protected from unnecessary contact with the accused and defence witnesses during the course of the trial*. By providing a private area for victims of crime, it enables the victim to be protected from unnecessary contact with the accused and defence witnesses during the course of the trial.

The Commission would like to thank the following program partners for their support during its transition to VSACT.

Lifeline ACT

Volunteering and Contact ACT

ACT Officer of the Director of Public Prosecutions

Justice and Community Safety Directorate

ACT Policing

Australian Federal Police

ACT Law Courts

Canberra Rape Crisis Centre

Domestic Violence Crisis Service

ACT Health

Communities@Work

Victims Support Service – SA

Victim Liaison Officers (AFP)

Support Link

Queanbeyan Courts

### Reviews of Victims of Crime Commissioner's Decisions

Victims of Crime Commissioner's decisions may be reviewed internally or by the ACT Civil and Administrative Tribunal. In 2016–17 the Commissioner reviewed five decisions, confirming three and varying two. There were no external reviews conducted by the ACT Civil and Administrative Tribunal.

## B.3 Scrutiny

During 2016-17, there was one recommendation to the Commission from the ACT Legislative Assembly Standing Committee on Justice and Community Safety– Report on Annual and Financial Reports 2015-2016.

### Standing Committee on Justice and Community Safety– Report on Annual and Financial Reports 2015-2016

Summary of recommendation	Action	Status
Recommendation 2 4.17 The Committee recommends that the ACT Education Directorate and the ACT Human Rights Commission, to the extent that work is not already taking place, coordinate their respective work to implement any relevant recommendations or responses to findings from the Royal Commission into Institutional Responses to Child Sexual Abuse.	Agreed in principle. It is noted that the Final Report from the Royal Commission is due to be submitted to the Governor-General on 15 December 2017. Until the recommendations from the Report are made public, and Government's response to these recommendations is known, it is difficult to commit to any specific action. Having said that, the ACT Education Directorate and the ACT Human Rights Commission have agreed to work together to ensure that the implementation of any relevant recommendations is undertaken in a coordinated way.	In progress
Recommendation 5 4.56 The Committee recommends that the ACT Government, through the Victims of Crime Commissioner, devise a method for resolution of family violence for those people who have a preference not to pursue such matters through mechanisms provided by the Courts or police.		In progress

[https://www.parliament.act.gov.au/\\_\\_data/assets/pdf\\_file/0013/1071022/9th-JCS-01-Annual-Report-2015-16.pdf](https://www.parliament.act.gov.au/__data/assets/pdf_file/0013/1071022/9th-JCS-01-Annual-Report-2015-16.pdf)

## B.4 Risk Management

The Commission's Risk Register is under review.

The Commissions Business Continuity Plan was endorsed on 28 June 2017 and satisfied the requirements of the ACT Audit Office.

## B.5 Internal Audit

The JACS Directorate's internal audit policies and procedures apply to the Commission. See the JACS Annual Report 2016-17.

## B.6 Fraud Prevention

There were no reports or allegations of fraud directed at the Commission in 2016-17.

The JACS Directorate's fraud control policies and procedures applied to the Commission. Compliance is detailed in JACS Annual Report 2016-2017

## B.7 Work Health and Safety

The Commission was not issued with any improvement, prohibition or non-disturbance notices under Part 10 of the *Work Safety Act 2011*.

During the reporting period the Commission operated according to JACS work health and safety (WHS) policies and procedures.

During the reporting period the Commission appointed a qualified fire warden; first aid officer; Respect, Equity and Diversity Contact Officer and WHS representative. The WHS representative attended the WHS training, 34 staff members did RISKMAN Training and 23 workstation assessments were completed for 23 staff.

WHS issues were considered by a JACS Workplace Consultative Committee created ahead of the Commission's relocation to 11 Moore Street. Recommendations of a lighting assessment in September were implemented including installing blinds to reduce glare.

The Commission monitored and improved WHS by including it as a standing agenda item at monthly Commission and staff meetings, and reviewed identified and potential hazards with work groups.

## B.8 Human Resources Management

ACT Shared Services and JACS' People and Workplace Strategy Branch assisted the Commission with recruitment in 2016-17. The Commission independently manages staff retention, support and training.

In 2016-17 the Commission employed 57 staff, the overwhelming majority of them female.

**Table 22: FTE Headcount by Gender**

Category	Female	Male	Total
FTE	45.4	5.2	50.6
Headcount	51	6	57
Workforce %	89.5%	10.5%	100.0%

**Table 23: Headcount by Employment Classification and Gender**

Classification	Female	Male	Total
Administrative Officers	12	2	14
General Service Officers & Equivalent	0	0	0
Health Professional Officers	10	1	11
Legal Officers	2	0	2
Senior Officers	24	2	26
Statutory Office Holders	3	1	4
<b>Total</b>	<b>51</b>	<b>6</b>	<b>57</b>

**Table 24: Headcount by Employment Category and Gender**

Employment Category	Female	Male	Total
Casual	1	1	2
Permanent Full-time	27	4	31
Permanent Part-time	12	0	12
Temporary Full-time	9	1	10
Temporary Part-time	2	0	2
<b>Total</b>	<b>51</b>	<b>6</b>	<b>57</b>



Table 25: Headcount by Age and Gender

Age Group	Female	Male	Total
Under 25	0	0	0
25-34	10	2	12
35-44	9	1	10
45-54	17	0	17
55 and over	15	3	18

Table 26: Headcount by Diversity Group

Diversity Group	Headcount	% of Total Staff
Aboriginal and/or Torres Strait Islander	1	1.8%
Culturally & Linguistically Diverse	6	10.5%
People with a disability	2	3.5%

Table 27: Headcount by Years of Service and Gender

Gender	Female	Male	Total
Average years of service	6.6	9.8	6.9

Table 28: Recruitment and Separation Rates by Classification

Classification Group	Recruitment Rate	Separation Rate
Administrative Officers	33.2%	22.1%
Health Professional Officers	52.2%	20.9%
Legal Officers	96.3%	0.0%
Senior Officers	17.0%	5.7%
Total	32.2%	13.4%

## Learning and Development

Throughout the year Commissioners and staff accessed a wide range of learning development and training programs relevant to the ACT Government's output areas for the Commission and its Strategic Plan. All learning and development programs were delivered by Registered Training Organisations.

Table 29: HRC Staff Learning and Development 2016-17

L&D Program	Provider	No. Attendees	Fee per head
Supporting People with Cognitive Disabilities in Decision Making	La Trobe University	1	\$100
Younger Onset Dementia	Alzheimer Australia	2	\$80
Kid Central Practice Workshop	Institute of Child Protection Studies	1	\$450
Mental Health and Wellbeing for Young People	Generation Next	2	\$199
Project Restore	Restorative Justice		\$0

L&D Program	Provider	No. Attendees	Fee per head
Slavery: identify and respond to modern slavery in Australia	Legal Aid Canberra	1	\$0
Assessment and Planning	Allied Health Clinical Education Unit	9	\$0
Client Centred Health and Wellbeing Plan	MHJHADS	8	\$0
Access and Release of Health Records	MHJHADS	10	\$0
Trauma Informed Training for Workers	Blue knot Foundation	2	\$265.00
Suicide and Risk Assessment Training	Dr Kristie Thorneywork AMHDS	9	\$0
Child Protection Training	JACS	3	\$0
Child Protection Training Refresher	ACT Health	9	\$0
Disability Discrimination and Disability Awareness	ACT HRC	6	\$0
Health Care Consumer	Kerry Snell and Kate Gorman	9	\$0
Authorised Persons Register	JACS	1	\$0
Fraud and Ethics Awareness	JACS	8	\$0
Writing for Government	CIT	1	\$354.54
JACS Induction	JACS	3	\$0
RISKMAN	JACS	34	\$0
Sharepoint Orientation	JACS	9	\$0
Recruitment and Staff Selection	Interaction consulting	2	\$250.83
Recruitment and Staff Selection	JACS	3	\$378.00
Enhancing Outcomes in Complex Trauma	Van Der Kolk	1	\$0
Trauma to Triumph	Applied Neuroscience Australia	1	\$970.00
Listen Acknowledge Respond	listen Acknowledge Respond	1	\$0
Accidental Counsellor Training	Lifeline		\$500
Restorative Practices and Gendered Violence	Restorative Community Network	2	\$0
RED Framework & Bullying Prevention and Management Training	JACS	1	\$0
Family Violence	Family law pathways network	1	\$0
Leading and Managing Teams	Yellow Edge	1	\$450.00
Sharepoint Essentials	JACS	2	\$0
Mental Health and Wellbeing for Young People (2)	Generation Next	1	\$199.00
Behavioural De-escalation	JACS - CIT	1	\$243.83
Your Rights Obligations Employment Training	Legal Aid ACT		\$0
Sticks and Stones - the language of disability	Advocacy for Inclusion	2	\$58.47
Allied Health Symposium	ACT Health	3	\$0
APIAS	JACS/SSC	1	\$0
Outlook	Wizzard	2	\$210

## B.9 Ecologically Sustainable Development

The Commission's new office included permanent recycling and organic waste management disposal units and motion sensitive lighting to reduce energy use.

The Commission actively encouraged staff to only print paper copies 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 use, or waste and greenhouse emissions generation.



# SECTION C: FINANCIAL MANAGEMENT REPORTING

## C.1 Financial Management Analysis

See C.2

## C.2 Financial Statements

In line with the Commission's Memorandum of Understanding with JACS its financial reporting is included in the Directorate's Annual Report 2016-2017.

## C.3 Capital Works

The Commission did not carry out any capital works activities or programs in 2016-17.

## C.4 Asset Management

The JACS asset management strategies applied to the Commission and are detailed in the Directorate's Annual Report 2016-2017.

## C.5 Government Contracting

The Commission did not enter into any contracts with suppliers of services, goods or works valued at more than \$25,000 during the reporting period.

Procurement selection and management processes for all Commission contracts complied with the ACT *Government Procurement Act 2001*, the ACT Government Procurement Regulation 2007 and subordinate guidelines and circulars throughout 2016-17.

## C.6 Statement of Performance

The Commission reports outputs against accountability indicators in Output 1.5 of JACS portfolio report.

### Output Class 1 Justice Services

#### Output 1.5 Protection of Rights

Provision of advocacy, complaints-handling, advice, community awareness raising and other services in connection with the promotion and protection of rights especially for vulnerable members of society, through services provided by the 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.

	2016–17 Original Target	2016–17 Amended Target	2016–17 Actual	YTD Variance %	Note
Total Cost (\$'000)	8,892		8,142	-8%	
Controlled Recurrent Payments (\$'000)	8,198		8,283	1%	
<b>Accountability Indicators</b>					
<b>ACT Human Rights Commission</b>					
a) High level of client satisfaction with Human Rights Commission complaints process:					
• Percentage of survey respondents who consider the process fair, accessible and understandable <sup>a</sup>	75%		75%	0%	
• Percentage of complaints concluded within Commission standards	75%		70%	-7%	
b) High level of community education, information and advice in relation to human rights and (i) services for children and young people, (ii) disability services, (iii) discrimination, (iv) health services, and (v) services for older people:					
• Number of community engagement activities undertaken by the Commission	30		59	97%	1
<b>Public Advocate of the ACT</b>					
c) The Public Advocate of the ACT's actions towards achieving a caring community where the rights and interests of vulnerable people are protected:					
• Proportion of client survey respondents for whom advocacy services are provided by the Public Advocate of the ACT where a high level of satisfaction is reported <sup>b</sup>	75%		74%	-1%	
<b>Public Advocacy</b>					
Individuals, excluding guardianship clients, brought to the attention of the Public Advocate:					
• Total number of individuals provided with direct advocacy	500		773	55%	2
• Percentage for clients referred to the Public Advocate for whom a review of the documentation was undertaken <sup>c</sup>	60%		84%	40%	3
<b>Victim Support ACT</b>					
d) Percentage of referrals to Victim Support ACT or the Victims of Crime Commissioner - actioned within five working days <sup>d</sup>	95%		89%	-6%	

The above Accountability Indicators were examined by the ACT Audit Office in accordance with the *Financial Management Act 1996*. The Total Cost and Government Payment for Outputs measures were not examined by the ACT Audit Office in accordance with the Financial Management (Statement of Performance Scrutiny) Guidelines 2016.

Variances given are from amended targets (where present) or from original targets (where no amended target exists).

## Note

- a) An evaluation form is sent out to both the complainant and the respondent with a reply-paid envelop each time a complaint is closed. In the 2016–17 financial year, 59 ACT Human Rights Commission (HRC) Evaluation Forms were completed and returned. Three questions included in the Evaluation Form allow clients to provide feedback on whether the HRC's process was fair, accessible and understandable.
- b) The Public Advocate (PA) of the ACT continues to use the stakeholder survey methodology of an electronic process through Survey Monkey. This electronic process has significantly increased the number of responses and the additional anonymity has allowed people to provide clearer feedback about the services provided. For the 2016–17 financial year, 46 individuals responded to the survey. Three (3) of the responses have been taken out of the results due to the responses being directed at guardianship services, which no longer fall within the remit of the Public Advocate. This has resulted in 43 responses providing data for the most recent survey, with 32 respondents indicating that they were 'very highly' or 'highly' satisfied with their interactions with the PA.
- c) Documentation refers primarily to compliance documents received from Mental Health services and the Office for Children, Youth and Family Support; and reports provided with individuals requests or referrals for advocacy.

Actioned refers to all initial contacts taken to directly communicate with people who are referred to the services. These include telephone calls, emails and written correspondences.

## Explanation of Material Variances (≥10%)

1. The higher than target outcome is mainly due to more active period of community engagement associated with the formation of the new Commission.
2. The higher than target outcome is primarily due to an increased number of individuals being brought to the attention of the Public Advocate. This indicator will be discontinued from 2017-18 given that the Public Advocate has no control over the number of clients brought to the attention of the office.
3. The higher than target outcome is primarily due to the Public Advocate prioritising reviews to: (1) establish an appropriate baseline for oversight in 2016–17 in light of the transition to 'Step Up for Kids'; and (2) support an increased presence at ACT Civil and Administrative Tribunal as part of the early implementation of the new *Mental Health Act 2015*. This indicator has been revised to 75% in 2017-18 to reflect the creation of a new position in the area of mental health advocacy.



# SECTION N: COMMUNITY ENGAGEMENT & SUPPORT

## Strategic Plan Priority 4: Increasing Community Engagement

### Community Engagement activities

The Human Rights Commission held a significantly higher number of community engagement activities in 2016–17 reflecting the formation of the new Commission.

There were 55 different community engagement activities held throughout the year, a substantial increase on the expected number of events.

The seven major activities for 2016–17 were:

#### Launch of New ACT Human Rights Commission

To mark the launch of the new, expanded ACT Human Rights' Commission an event was held at its new office on 24 August 2016. The event involved a dedication of the Commission's Conference Room named in honour of ACT victim of crime Clea Rose. About 140 people attended including Clea's parents Frances Rose and Ross Dunn, ACT Attorney General Simon Corbell and ACT Minister for Minister for Aboriginal and Torres Strait Islander Affairs Chris Bourke.

#### UNDRIP Anniversary

On 13 September 2016, the Commission marked the 9<sup>th</sup> anniversary of the adoption of the UN Declaration of the Rights of Indigenous Peoples in 2007 with a screening at the National Film and Sound Archive of *Putuparri and the Rainmakers*. Co-hosted with the ACT Aboriginal and Torres Strait Islander Elected Body, the event was attended by around 150 people, including ACT Minister for Minister for Aboriginal and Torres Strait Islander Affairs Chris Bourke and Aboriginal and Torres Strait Islander Affairs Elected Body Chair Ross Fowler and Member Maurice Walker.

#### Human Rights and Gendered Violence International Human Rights Day Forum

More than 135 people attended a community forum on *Human Rights and Gendered Violence* to mark International Human Rights Day 2016 on 9 December 2016 at the ACT Legislative Assembly. Co-hosted by the Commission and Amnesty International ACT/NSW, the event was chaired by President and Human Rights Commissioner Dr Helen Watchirs. The speakers were:

- Louise Taylor, Deputy CEO ACT Legal Aid;
- Jo Wood, ACT Coordinator-General for Family Safety;
- Nishara Fallon, Amnesty International ACT/NSW Coordinator; and
- John Hinchey, ACT Victims of Crime Commissioner.

#### Launch of *Everyone Can Play*: Guidelines for local clubs on best practice for inclusion of transgender and intersex participants.

The Human Rights Commission worked with A Gender Agenda, the Australian Sports Commission, ACT Sport and Recreation Services and community stakeholders representing transgender and intersex people to develop the guidelines to build a safe and inclusive response to everyone wanting to play. Research shows that participation in sport is an important contributor to individual well-being and that sports benefit from increasing diversity in their participant profile. However, discrimination adversely affects many intersex and transgender people's enjoyment of sport, and prevents them from participating.

*Everyone Can Play* was launched in collaboration with A Gender Agenda on 6 April 2017.



The Commission's stall is always popular at the annual NAIDOC Family Day. Commission staff Kezlee Gray and Diane Knight fielded questions about human rights in the ACT.

## Same Love Same Rules Launch

The Commission supported the Women's Centre for Health Matters to launch its *Same Love Same Rules* campaign against domestic and family violence for people in same sex relationships at the Commission's conference room.

## Commission Information Stalls

The Commission hosted information stalls and 'selfie' photo booths at a range of expos to raise awareness about human rights, what we do, the impact we make and how to access help and support.

In 2016–17, Commission staff participated in the ACT Careers Expo, Spring Out Fair Day, NAIDOC Family Day, Youth Week Festival, Seniors Week Expo and Mental Health Week Expo.

## Client Services Charter 2016-19

The Commission consulted with the ACT community to develop its Client Services Charter 2016-19, a requirement of s18B of the HRC Act. The Commission used the ACT Government's online *Have Your Say* community engagement tool for the consultation.

The Charter adopted in December 2016 is based on the Commission's commitment to human rights and belief that all people deserve to be treated with respect and dignity. It explains what the Commission does, what clients can expect from it, how it provides services and how to offer feedback to help improve its services. See:

<http://hrc.act.gov.au/about-act-human-rights-commission/client-services-charter-2016-2019>

## Engagement With Children and Young People

### Life Transitions: What Do Children and Young People Say?

Transitions are important times for everyone, often involving a change in environment, relationships, roles and expectations. Transitions are times of opportunity when potential can be explored, but are also times of uncertainty when vulnerability is increased. Listening to what children and young people say is important in understanding how they anticipate and manage transitions and advocating for the supports that help them most.

The Children and Young People Commissioner (CYPC) team designed this project in collaboration with Year 5/6 students at a local ACT primary school, and is consulting a number of other ACT primary schools. Some of the early findings show that children see transitions as both opportunity and challenge. Children are able to articulate the things that help, and their responses include a mixture of external supports and internal or personal characteristics. Children are saying that adults, especially parents, are a key source of support, but they have lots of ideas about how adults can support them better. The project is continuing in 2017-2018.

The Human Rights Commission was represented at the Canberra Careers Xpo 2016, an event organised by the Rotary Club of Canberra City with help from the ACT Education Directorate.





Commissioner Jodie Griffiths-Cook, Youth Week 2017.

The CYPC team took the opportunity to ask young people about changes in their lives, their sources of support and sense of agency. Over 600 young people participated in our survey, which sought their thoughts about their future and career. Around three-quarters of young people were concerned about 'whether they would find a job' and 'earning enough money'. Working out what they want to do, and whether they would have the right skills and qualifications were also big issues. A range of other considerations, such as moving out of home, whether to have a gap year, the expectations of others (such as family) and which city to live in, were also on the radar for young people.

The CYPC repeated the survey with 70 young people at the Youth Week Festival at Harrison School in March 2017. Young people had experienced many different transitions that were significant. The top five were moving house/state/country, changing schools, making different friends, someone I know dying or getting sick, and starting high school.

When thinking about the future, the changes that young people thought about most were: 'working out what I want to do', 'moving out of home', 'earning enough money', 'whether I will find a job' and 'who I'm going to be' (identity and appearance).

Overwhelmingly, family (59%) and friends (52%) were the supports that young people found most helpful during life transitions. Young people also talked about their own internal strengths (such as staying positive) and other external sources of support (like listening to music, counsellors and teachers).

### Child-friendly Cities: What Do Parents of Babies and Pre-Schoolers Say?

Children of all ages have views and opinions and the right to express them. At the ACT Playgroups Association 'World's Biggest Playgroup', the CYPC team invited children to help build a child-friendly city. Parents and carers were invited to share their views and experiences of Canberra as a child-friendly city.

When asked to rate Canberra as a child-friendly city on a scale of one to five, nearly all respondents (30 out of 35 people) nominated four ('child friendly') or five ('very child friendly'). The most common sources of support for parents/carers were family, friends and websites. They described a range of suggestions for improvements to transport infrastructure, playground infrastructure, parking, childcare, and public events.



## Social Exclusion and Violent Extremism: What Do School Students Say?

In October 2016, the CYPC released the report *If only we had asked him to play soccer... A report on the outcomes of discussions with ACT school students about social exclusion and violent extremism*.

The risk of young people becoming involved in violent extremism is a concern shared by many governments, not only in Australia but also internationally. Significant resources around the world are being put into developing and implementing programs to reduce this risk, however little attention has been given to the views and perspectives of young people on this issue.

Without talking directly with, not to, young people about violent extremism, it is likely that programs intended to dissuade young people from engaging in violent extremism will be ineffective or even counterproductive.

This consultation sought the views of young people about why some young people may become involved in violent extremism, and what we might be able to do to prevent this. Fifteen consultation sessions were held across eight (8) ACT public schools and non-government schools, involving a total of 206 students.

## Cultural Competency in Care: What Do Aboriginal Young People Say?

Through a number of consultations across April and May this year, the CYPC had the pleasure of yarning with six Aboriginal young people who graciously shared their stories and talked to the Commissioner about the extent to which they felt their cultural identity had been supported as a 'child in care'.

The Aboriginal young people talked about their experience of discrimination and stereotyping, and articulated a need for greater support for parents, families and community. They were also clear about the need for non-Indigenous people to listen to and work together with the Aboriginal and Torres Strait Islander community to effect change. The young people spoke about the importance of maintaining family connections, of knowing about their cultural heritage and country of origin from an early age, and of being able to have cultural experiences provided not only to them but also to their non-Indigenous peers.

Each of the young people spoke of their pride in being Aboriginal even though many said they are still learning about what that means as a result of not having been given enough information about their family and cultural background as they were growing up. They also had some great ideas about how Aboriginal young people could be supported to understand and experience their culture, for example by involving young people in planning processes, and involving all young people in cultural activities to promote cultural integration.

In the words of one young person was a clear message that similarly came through in the views of all the young people: 'It's okay to not know about Aboriginal culture, it's not okay to not ask.'

The CYPC thanks each of the young people who spoke with her for sharing their story, and she looks forward to yarning further with them, as well as with others who may be interested in doing the same. The CYPC would also like to acknowledge the assistance provided by the CREATE Foundation in bringing young people together for these consultations.

## Other Children and Young People Commissioner Community Engagements

The Commissioner's team also organised a range of activities and events including:

- a Canberra Playgroup Association's Playfest activity around the In Children's Week 2016 theme: 'Children have the right to reliable information from the media'. Preschool children decorated and climbed in and out of a cardboard box television, and told the team what television they watched and parents and carers were provided with information about the Commission;
- an art competition for Children's Week that invited children to show what they liked to 'do, learn or play' with technology;
- visits in Children's Week to the Belconnen Early Childhood Centre, Girl Guides, YWCA School Age Care Program at Kingsford Smith School, Belconnen Childcare Centre and CREATE Foundation showcasing services for ACT children and the diverse range of experiences in children's lives;
- a jewellery making activity at the 2017 Youth Week Expo and inviting young people to complete a survey about 'transitions' to better understand the change experiences they had found most significant and the sources of support they had found most helpful;
- meeting with the Wreck Bay Aboriginal community members at the during NAIDOC Week Carnival and offering a jewellery making activity;
- visiting the Treehouse in the Park Early Learning Centre for their exceptional end of year art exhibition; and
- hosting a jewellery making activity at CREATE Foundation's Easter Party at Weston Park.

## Human Rights Commission Training

### Discrimination Act Training

The Commission dedicated resources to raising awareness about the *Discrimination Act 1991* including amendments to the Act on religious vilification and disability that came into force in August 2016, and further amendments that expanded and improved discrimination protections that came into force in April 2017.

The Commission delivered tailored training on 'Disability Awareness and Discrimination' on 9 November 2016.

The Commission delivered 'Re-introducing ACT Discrimination Law' training on 7 December 2016.

Training on 'Discrimination, Harassment and Bullying' was delivered 25 September 2016 and 29 March 2017.

Three 'Opening up Equality in the ACT: The New Discrimination Grounds and Beyond' training sessions were held on 7, 22 and 30 June 2017.

### Human Rights Training

The Commission provided 'Introduction to the *Human Rights Act*' training sessions to ACT Corrective Services staff on 8 November 2016.

Tailored sessions on the *Human Rights Act* were delivered to ACT Policing Executive and Policy staff on 24 November 2016 and 1 June 2017.

The CYPC team provided human rights information and education, particularly children's rights. In 2016-2017 this included:

- Lake Tuggeranong College legal studies students visited the Commission and participated in a case study workshop;
- a Miles Franklin School year 6 class interactive session as part of their unit of inquiry on 'sharing the planet'; and
- three interactive sessions on children's rights with Gold Creek Primary School year 2 students.

### Health Records Training

The Commission provided tailored three-hour training sessions about rights and responsibilities under the *Health Records (Privacy and Access) Act 2007* for consumers and health service providers. The workshops addressed a range of concerns relevant for professionals handling personal health information but not providing health services, such as workers compensation or insurance claim administration staff or health service billing staff. About 60 people attended these training sessions in 2016-17.

Customised training about privacy obligations when managing personal health information was provided to Capital Health Network's Practice Managers group, ACT Shared Services and Ambulance Service, A Gender Agenda and Calvary Hospital.

### Child and Youth Protection Training

The Victims of Crime Commissioner delivered training on his role to Child and Youth Protection services staff on 19 September 2016.

### Financial Assistance Scheme Training

A large part of the 2016-17 year was dedicated to raising awareness about the changes to the Victims of Crime Financial Assistance Scheme (FAS) through various community engagement activities.

In total 404 people were briefed on the FAS in 2016-17, including the following key stakeholders:

ACT Police Victim Liaison Officers	Gugan Gulwan Aboriginal Youth Corporation;
ACT Health;	DPP;
JACS;	Women's Legal Centre;
Legal Aid ACT;	Louisa Domestic Violence Service; and
ACT Housing;	Winnunga Nimmityjah Aboriginal Health Service;
ACT Together;	Advocacy for Inclusion;
Aids Action Council;	Carers ACT; and
Australian Red Cross;	Relationships Australia.

Commission staff also presented on human rights, discrimination and health service concerns at events organised by community organisations such as the National Council of Women ACT, A Gender Agenda and Care Australia.

## Grants and Sponsorships 2016–17

Table 30: Grants and Sponsorships

Date	Name	Recipient	Amount	Grant purpose
18.11.2016	ACT HRC Human Rights Law Prize	Australian National University	\$200	Annual prize awarded to the student achieving the highest mark in human rights law subject.
30.1.2016	ACT HRC Human Rights Law Prize	University of Canberra	\$200	Annual prize awarded to the student achieving the highest mark in human rights law subject.
22.3.2017	Survivor Network ACT	Griffin Centre	\$300	Support meeting accommodation costs at Griffin Centre.



# SECTION O: JUSTICE AND COMMUNITY SAFETY

## O.1 Bushfire Management

The Commission did not own or manage Territory land during the reporting period.

## O.2 Freedom of Information

The Commission received no requests under s79 of the *Freedom of Information Act 1989* (Fol Act) in 2016–17. Fol Act section 7 and section 8 statements relating to the Commission can be found in the JACS Annual Report 2016–17.

## O.3 Human Rights

Human rights are at the core of all the Commission's work. Accordingly, it applies rights-based principles in response to all enquiries and complaints, in particular principles of natural justice, impartiality, procedural fairness, confidentiality, evidence and transparency.

The Commission provided advice to the ACT Government on the human rights implications of proposed policies and legislation through submissions consultation processes, Legislative Assembly inquiries and draft Cabinet Submissions and draft Bills. The Commission responded to requests from Ministers and MLAs for human rights advice on specific topics.

Throughout the year the Commission delivered training on human rights, the HR Act and the *Discrimination Act* (including amendments that came into force in August 2016 and April 2016) to ACT Government agencies, community groups and the general public face-to-face and online. See Section N for details.

Commissioners and staff delivered speeches and presentations on various aspects of human rights, the HR Act and *Discrimination Act* to community groups and forums during the year. See Appendix A for details.

New Commission staff were provided with copies of relevant internal policies, procedures and publications, including those relevant to the HR Act. Some new staff participated in Commission human rights training sessions.

## O.4 Legal Services Directions

During the reporting period, the Commission complied with all legal services directions issued under section 11 of the *Law Officers Act 2011*.

# SECTION P: PUBLIC SECTOR STANDARDS AND WORKFORCE PROFILE

## P.1 Culture and Behaviour

The Commission's Strategic Plan 2017-120 expanded on the ACT Government Code of Conduct values—respect, integrity, innovation and collaboration—to include 'accessibility' and 'independence' reflecting its purpose and status as an independent statutory body.

## P.2 Public Interest Disclosure

The Commission did not receive any requests for public interest disclosures during 2016–17.

## P.3 Workforce Profile

See B.8 Human resources.

## SECTION Q: TERRITORY RECORDS

### Q Territory Records

The Commissions uses the JACS Records Management Program. A senior Commissioner officer retained responsibility for records management in 2016–17, as required by Territory Records Office standards.

The Corporate Support Team maintained overall responsibility for the records management program and all staff received training on records management on induction and throughout the year as required.

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

**Table 23: Records Disposal Schedules**

Records Disposal Schedule Name	Effective	Year and No.
<b>Territory Records (Records Disposal Schedule – Finance and Treasury Management Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-83
<b>Territory Records (Records Disposal Schedule – Government and Stakeholder Relations Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-84
<b>Territory Records (Records Disposal Schedule – Human Resources Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-79
<b>Territory Records (Records Disposal Schedule – Information and Communications Technology Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-85
<b>Territory Records (Records Disposal Schedule – Property Equipment and Fleet Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-86
<b>Territory Records (Records Disposal Schedule – Records and Information Management Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-87
<b>Territory Records (Records Disposal Schedule – Solicitor and Legal Services Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-88
<b>Territory Records (Records Disposal Schedule – Strategy and Governance Records) Approval 2017 (No 1)</b>	27 February 2017	NI2017-89
<b>Territory Records (Records Disposal Schedule- Advocacy Services Records) Approval 2015 (No 1)</b>	3 July 2015	NI2015-357

Source: ACT legislation register.



# APPENDIX A: COMMISSIONER'S PRESENTATIONS

## President and Human Rights Commissioner

In 2016–17, the President and Human Rights Commissioner spoke to a variety of local community organisations and forums about the Commission's new structure, and its role. She also delivered the following keynote speeches on significant human rights issues and law.

- *Gender Diversity Panel*, Future Shapers Forum, ANU, 20 June 2017
- *Freedom of Speech*, Canberra Grammar School, 7 June 2017
- ANU Law Students Society Social Justice Panel *Gender Diversity*, 9 May 2017
- Vintage Reds (Retired Unionists), 16 May 2017
- ACT Social Workers, Annual dinner, 18 May 2017
- CARE Australia on International Women's Day, 15 March 2017
- Close the Gap Event, JACS, 16 March 2017
- ACT Legislative Assembly, new MLA Officer's training on HR Act and legislative scrutiny, 23 February
- National Council of Women ACT, 9 February 2017
- International Human Rights Forum, *Violence Against Women*, Legislative Assembly, 9 December 2016
- Association of Corporate Council Diversity and Inclusion Conference, 18 November 2016
- OPCAT Roundtable, ACT HRC, 30 November 2016
- Circle of Gender Equity, *Disability Rights*, ANU, 21 September 2016
- Sentence Administration Board, Magistrate's Court, 20 September 2016
- JACS Audit Performance Improvement Committee, 14 September 2016
- UN Declaration of Rights of Indigenous Peoples event, NFSA, 13 September 2016
- ACT Human Rights Commission Launch, 24 August 2016
- JACS Executive Committee, 21 August 2016
- Willing to Work and DAPs, CMTEDD, 22 July 2016

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

- ACTCOSS Choice and Control Forum, 14 June 2017
- Health Care Consumers Association Forum, 31 May 2017
- Launch of Everyone can play: guidelines for local clubs on best practice for inclusion of transgender and intersex participants, April 2017
- ACT NDIS Community Roundtable, 14 March 2017
- Canberra Multicultural Community Forum, 26 February 2017
- International Human Rights Day, Multifaith panel, 13 December 2016
- International Day of People With Disability, 5 December 2016
- ADACAS Information Session, 14 October 2016
- ANU Medical School, 28 September 2016
- Community Legal Centres Information Session, 14 September 2016
- National Health and Disability Commissioners Meeting, 1 September 2016
- Commonwealth Employees LGBTIQ Network, 16 August 2016

## Public Advocate and Children's and Young People Commissioner

The Children's and Young People Commissioner presented to following forums:

- Child Aware Approaches Conference, May 2017;
- Education and Training Directorate Transitions Forum, February 2017;
- Anti-Poverty Week Uniting Event, October 2016;
- Launched TJILLARI Justice Aboriginal Corporation's '*Bill of Rights for the Children of Parents Inside*' poster, Marymead, 26 October 2016;
- Children's Week Commissioner's Award, Turner Primary School, October 2016;
- Australian Juvenile Justice Administrators Conference, September 2016;
- Youth Coalition Event, National Child Protection Week 2016, September 2016;
- ACTCOSS Conference, August 2016; and
- Youth Safe Framework, Defence Youth Safety Forum, August 2016.

## Victims of Crime Commissioner

During 2016–17, the Victims of Crime Commissioner held a number of consultations with victims of crime and representatives of specific groups to identify issues relating to the rights of victims of crime. See more information in section B.2 under *Charter of Rights for Victims of Crime*.

The Victims of Crime Commissioner also presented to following forums:

- North Canberra Community Council, 21 February 2017;
- International Human Rights Day Celebration, 9 December 2016;
- 15th Annual Protective Behaviours Conference, 8 September 2016;
- University of the Third Age, 6 September 2016; and
- Hawker College TeddyX 2016, 4 August 2016.

# CONTACT OFFICER

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# ACRONYMS AND ABBREVIATIONS

ACAT	ACT Civil and Administrative Tribunal
AHPRA	Australian Health Practitioners Regulation Agency
AMC	Alexander Maconochie Centre
ATSIEB	Aboriginal and Torres Strait Islander Elected Body
CCOs	Community Care Orders
CSD	ACT Community Services Directorate
CYP Act	<i>Children and Young People Act 2008</i>
CYPS	Child, Youth Protection Service
DVPC	Domestic Violence Prevention Council
FCCOs	Forensic Community Care Orders
<i>HPRN Law</i>	<i>Health Practitioner Regulation National Law</i>
HR Act	<i>Human Rights Act 2004</i>
HRC Act	<i>Human Rights Commission Act 2005</i>
JACS	ACT Justice and Community Safety Directorate
LGBITQ	lesbian, gay, bisexual, transgender, intersex, queer
LRAC	Law Reform Advisory Council
MLA	Member of the Legislative Assembly
NAIDOC	National Aborigines and Islanders Day Observance Committee
NDIS	National Disability Insurance Scheme
OATSIA	Office of Aboriginal and Torres Strait Islander Affairs
OPCAT	Optional Protocol to the Convention Against Torture
ORT	opioid replacement therapy
PYW	Premier Youth Works
RAP	Reconciliation Action Plan
RTO	Registered Training Organisations
SSN-ACT	Survivor Support Network ACT
UNDRIP	UN Declaration of the Rights of Indigenous Peoples
VSACT	Victim Support ACT
VoCFA Act	<i>Victims of Crime (Financial Assistance) Act 2016</i>
WHS	work, health and safety