

Roy, Alasdair

From: Taylor, Kate
Sent: Tuesday, 10 January 2012 1:55 PM
To: Roy, Alasdair
Subject: RE: Official Visitor

Thanks so much

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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From: Roy, Alasdair
Sent: Tuesday, 10 January 2012 1:54 PM
To: Taylor, Kate
Cc: Robbins, Jarrah
Subject: Official Visitor

Hi Kate

I understand from Jarrah that you are after Narelle's contact details - the best number to reach Narelle is: 6254 4209

Thanks

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au | ACTkids@act.gov.au
www.ACTkids.act.gov.au

Roy, Alasdair

From: Walls, Fiona on behalf of HUNTER
Sent: Thursday, 7 October 2010 10:39 AM
To: Roy, Alasdair
Subject: RE: sexualisation of children

Thanks very much for sending that through Alasdair.

Meredith and Mel are both on leave until Monday but I'll bring it to their attention when they return.

Regards,

Fiona Walls

Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au

From: Roy, Alasdair
Sent: Thursday, 7 October 2010 10:33 AM
To: HUNTER
Subject: sexualisation of children

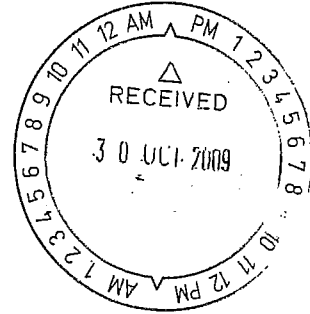
Hi Meredith

Not sure if you saw this:

<http://www.abc.net.au/news/stories/2010/10/06/3031357.htm>

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au | ACTkids@act.gov.au
www.ACTkids.act.gov.au



Shane Rattenbury MLA

ACT Greens

Spokesperson for Attorney General, Environment, Climate Change and Water, Energy,
Policy and Emergency Services, Tourism, Sport and Recreation.

MEMBER FOR MOLONGLO

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner
ACT Human Right Commission
GPO Box 158
CANBERRA ACT 2601

Dear Dr Watchirs

I write to add my support to a recent request for you to undertake an inquiry into human rights and discrimination issues that the ACT's sex and gender diverse community face.

I understand the group A Gender Agenda has written to you setting out some of the history to these issues. I support their request for an inquiry and will be writing to the Attorney General to ask that he either supports the request as well, or more formally directs you to undertake such an inquiry.

From the history that A Gender Agenda provided you with it is clear that there is stated Government support for action required to better protect the rights of the sex and gender diverse community, notwithstanding some of the delays experienced to date.

Should you be able to schedule an inquiry that produced practical recommendations on how to best address any human rights and discrimination issues, I am confident that it would be acted on by the Legislative Assembly.

The Australian Human Rights Commission's concluding paper to the national sex and gender diversity project has a range of important recommendations, and guidance from your office to the ACT Legislative Assembly on how to best address these recommendations on a local scale would be valuable.

I particularly note the three key areas of inquiry identified by A Gender Agenda (a) legal recognition and definitions, (b) health, and (c) discrimination, and request that you give consideration to including such an inquiry in your forward work program.

Yours Sincerely

Shane Rattenbury
29 October 2009

Celebrating twenty years of democracy

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Legislative Assembly for the Australian Capital Territory

Civic Square, London Circuit (GPO Box 1020) Canberra ACT 2601

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Printed onto 100% recycled paper

Costello, Sean

Subject: FW: Possible meeting to discuss workplace bullying

From: Marchant, Hazel
Sent: Thursday, 7 July 2011 8:55 AM
To: Watchirs, Helen
Subject: RE: Possible meeting to discuss workplace bullying

Dear Helen,

I've put it in the diary. We'll look forward to it.

Many thanks,

Hazel

From: Watchirs, Helen
Sent: Wednesday, 6 July 2011 3:00 PM
To: Marchant, Hazel
Subject: RE: Possible meeting to discuss workplace bullying

Dear Hazel,
30 August suits us best – say 10am?

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, [Humanity](http://www.hrc.act.gov.au) - the latest version is at www.hrc.act.gov.au

From: Marchant, Hazel
Sent: Wednesday, 6 July 2011 1:54 PM
To: Watchirs, Helen
Subject: RE: Possible meeting to discuss workplace bullying

Dear Helen,

It looks like the next available date where everyone will actually be here is the 29th of August. These are the times for that week that are free in Amanda's diary:

29/8 9am -12noon
30/8 9am – 12noon
1/9 9am – 12noon

2pm – 5pm

Let me know if any of these times are suitable, and I'll mark it in the diary.

Thank you,

Hazel

From: Watchirs, Helen
Sent: Wednesday, 6 July 2011 1:44 PM
To: Marchant, Hazel
Cc: Costello, Sean
Subject: RE: Possible meeting to discuss workplace bullying

Dear Hazel,
Something urgent has come up at the AMC on Thursday, so I was wondering if we could please reschedule meeting on Ms Bresnan's return from overseas in August (please note that I am on leave 16-26 August)?

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

From: Marchant, Hazel
Sent: Thursday, 30 June 2011 1:41 PM
To: Watchirs, Helen
Subject: RE: Possible meeting to discuss workplace bullying

Dear Ms Watchirs

Thank you so much for the rapid response. We'll look forward to seeing you both here on Thursday.

Hazel Marchant

From: Watchirs, Helen
Sent: Thursday, 30 June 2011 1:16 PM
To: Marchant, Hazel; Costello, Sean
Cc: Durkin, Mary; Roy, Alasdair
Subject: FW: Possible meeting to discuss workplace bullying

Dear Hazel,
I am happy to meet with Ms Bresnan at 9-10am Thursday 7 July – I will also be accompanied by Mr Sean Costello, Human Rights & Discrimination Legal Policy Adviser

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

Dear Ms Watchirs,

Amanda Bresnan has been examining ACT Government policy and legislation regarding workplace bullying, and was wondering if she could meet you, or another representative of the Human Rights Commission, to get your advice on the extent of bullying complaints in the ACT, and the involvement of the Human Rights Commission in the investigation and prosecution of these complaints. Your suggestions for any improvements to the system would be invaluable.

I include some possible times for a meeting.

9:00-11:00am or 12:00-1:30pm Monday 4 July
9:00-11:00am or 12:00-2:00pm Thursday 7 July

I apologise for the relatively short notice, but both Amanda and her senior IR adviser are travelling overseas next month. If none of these times are suitable, we could try to find another time, or we may have to wait until after Amanda's return to arrange a meeting then.

Many thanks,

Hazel Marchant
Electorate Officer

*Office of Amanda Bresnan MLA, ACT Greens Parliamentary Whip
Member for Brindabella*

Ph: 6205 0130 / Fax: 6205 0498 / E: bresnan@parliament.act.gov.au

Roy, Alasdair

From: greens.act [greens.act@gmail.com]
Sent: Thursday, 22 October 2009 11:37 PM
To: Roy, Alasdair
Subject: Cocktail Party Invitation



The ACT Greens

Invite

Alasdair Roy and colleagues

To our First Year Anniversary Drinks

Join Meredith Hunter, Shane Rattenbury, Amanda Bresnan and Caroline Le Couteur in celebrating the first year in the Legislative Assembly of the ACT and looking to the future.

6 – 8pm Thursday 26 November 2009

The Drawing Room

University House

Australian National University

Members \$35 | Non-members \$45

Enquiries and bookings from the ACT Greens Office:
email office@act.greens.org.au or phone: 6247 6305

Roy, Alasdair

From: Roy, Alasdair
Sent: Tuesday, 28 July 2009 6:38 PM
To: Greenhalgh, Melanie
Subject: FW: Meeting with Meredith Hunter MLA

hi melanie - any chance of 2.00pm on tuesday?

alasdair

alasdair roy
children & young people commissioner
human rights commission
62052222
alasdair.roy@act.gov.au
ACTkids@act.gov.au

-----Original Message-----

From: Watchirs, Helen
Sent: Tuesday, 28 July 2009 6:11 PM
To: Roy, Alasdair
Subject: RE: Meeting with Meredith Hunter MLA

Dear Alasdair,
Yes, but is there any chance she could do it at 2pm, as I have a speech to give at 5pm?

Regards,

Helen.

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner Level 4, 12 Moore Street Canberra City
ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

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-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 28 July 2009 5:57 PM
To: Watchirs, Helen
Subject: FW: Meeting with Meredith Hunter MLA

i can, can you?

alasdair roy
children & young people commissioner

human rights commission
62052222
alasdair.roy@act.gov.au
ACTkids@act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 28 July 2009 11:45 AM
To: Roy, Alasdair
Subject: RE: Meeting with Meredith Hunter MLA

Hi Alasdair

Wed 12 August Meredith is in Committee's all day. Could you do Tues the 11th at 3.00pm?

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Monday, 27 July 2009 4:33 PM
To: Greenhalgh, Melanie
Cc: Watchirs, Helen
Subject: RE: Meeting with Meredith Hunter MLA

Hi Melanie

How about the afternoon of Wednesday 12 August - say, 3.00pm?

Thanks

alasdair

alasdair roy
children & young people commissioner
human rights commission
62052222
alasdair.roy@act.gov.au
ACTkids@act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Monday, 27 July 2009 3:35 PM
To: Roy, Alasdair
Cc: Watchirs, Helen
Subject: Meeting with Meredith Hunter MLA

Dear Alasdair

We caught up briefly at the Youth Coalition forum on the Young People's Plan. I mentioned that day that Meredith and I would love the opportunity to catch up with yourself and perhaps Helen Watchirs to discuss the draft idea's we have for a bill on the Protection of Children's Environmental Health Rights.

Let me know if this could work for you and we can arrange a date to catch up.

Melanie Greenhalgh

Advisor
Meredith Hunter MLA
ACT Greens
Civic Square London Circuit
(GPO Box 1020) Canberra ACT 2602
Phone: 02 6205 0106
melanie.greenhalgh@act.gov.au

Roy, Alasdair

From: Roy, Alasdair
Sent: Monday, 23 November 2009 2:49 PM
To: Greenhalgh, Melanie
Subject: RE: FYI Media Release from Meredith Hunter

Hi Mel

Thanks for this - the issue seems to be hotting up. I was talking with FaHCSIA the other day, and it seems as if a position paper re a National Commissioner is on the way to Macklin as we speak. Given that the whole idea seems to have sprung from the National Child Protection Framework (which has a 'well-being' focus), but others are calling for a 'rights based' Commissioner, I'm not sure which way it is going to go. I have my suspicions, yte I'm not sure!

See ya

alasdair

alasdair roy
children & young people commissioner
human rights commission
62052222
alasdair.roy@act.gov.au
ACTkids@act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Monday, 23 November 2009 12:36 PM
To: Roy, Alasdair
Subject: FYI Media Release from Meredith Hunter

Hi Alasdair

Meredith asked me to forward to you FYI.

She will see you Friday at the FINACT Panel Discussion'

Mel

Greens Call For A Commissioner to Protect Our Kids Media Release | Spokesperson Sarah Hanson-Young Friday 20th November 2009, 8:41am in Children Youth Affairs The Australian Greens will move for the introduction of a new Commonwealth Commissioner for Children and Young People to provide protection and a voice for all young Australians, according to Greens Senator Sarah Hanson-Young.

On the 20th anniversary of the United Nations Convention on the Rights of the Child, the Greens today announce they will introduce legislation to establish a Federal independent statutory body to oversee the rights of young Australians.

"Australia needs a properly-resourced Commonwealth Commissioner for Children and Young People with the powers to ensure recognition of their needs, views and rights," Senator Hanson-Young said.

"According to a survey by the Save the Children charity, 78 per cent of Australians believe there is a role for a Commonwealth Commissioner - clearly this idea makes sense both to the public and to national organisations.

"Whether it's children in child care or state care, in the education system, the juvenile justice system or detention on Christmas Island, in big cities, small towns or outback communities, all young people deserve to have someone looking out for their interests.

"For their sake, let's make it someone with the power to do something when things go wrong."

Under the Greens' proposed legislation, some of the key functions of the Commission would include:

Defending the rights of all children and young people, holding Australia to our commitments under the UN Convention on the Rights of the Child
Assessing current and prospective laws to find whether they are in children's best interests and reporting the conclusions to Parliament
Representing the interests of young people in relevant legal cases
Working with all levels of government to ensure proper co-ordination of policies, programs and funding
"Other countries already have independent Commissioners for children - Australia is lagging behind," Senator Hanson-Young said.

"Advocacy for children and young people should be a national priority. This new Commonwealth Commissioner would ensure adequate protection for all kids, particularly the vulnerable and disadvantaged."

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 20 April 2010 2:18 PM
To: Roy, Alasdair
Subject: Child Death Review Team
Attachments: Brief for PCO on Child Death Review Team.doc

Hey Alasdair

I am working on putting together a brief for the Parliamentary Counsel Office to develop some changes to the CYP Act 2008 to include a function that would allow the establishment of a Child Death Review Team, I know this is dear to your heart.

I have a very drafty brief together and am looking to complete the costings and possible funding options. Wondered if you have access to information about how much it cost other jurisdictions to run their committees annually? I have been trawling through budget papers but thought you might have that information on hand.

Wanted to know if we could meet to discuss what we are thinking as your input is invaluable? I work Mon and Tues. Would you be free on Monday 3rd at 11:30am?

I have attached what is a very drafty first go. If you have any feedback at this stage that would be great.

Thanks Alasdair

Me1

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 20 April 2010 3:43 PM
To: Roy, Alasdair
Subject: RE: Child Death Review Team

Alasdair we would love to come to you. I have booked it in the diary.

Timely all round. We would really like bi-partisan agreement on this one as it has been so long in the making and so overdue!

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 20 April 2010 2:44 PM
To: Greenhalgh, Melanie
Subject: RE: Child Death Review Team

Hi Mel

Yes, that time is fine - would you like to come here?

Coincidentally, I was just talking about this with the Minister this morning, and also attended a meeting of the Australian/New Zealand Child Death Review & Prevention Group in Brisbane yesterday.

In the interim, I will have a look at what you have done so far.

Thanks

alasdair

alasdair roy
children & young people commissioner
6205 2222
alasdair.roy@act.gov.au I ACTkids@act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 20 April 2010 2:18 PM
To: Roy, Alasdair
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I have attached what is a very drafty first go. If you have any feedback at this stage that would be great.

Thanks Alasdair

Mel

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Monday, 3 May 2010 2:54 PM
To: Roy, Alasdair
Subject: RE: Child Death Review Team

No worries Alasdair. I have been working on the brief and we have nussed it down to all of the ACT children and analysis and recommendation was always part of the brief just not at that stage with the PCO yet.

Would like to talk more about the C and P subset issue as having looked at other reports across Australia I found that this information was useful from an advocacy point of view - look forward to getting more of your view on it too.

Let me know when you able to catch up.

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Thursday, 29 April 2010 11:24 AM
To: Greenhalgh, Melanie
Subject: FW: Child Death Review Team

Hi Mel

I have thought a bit more about this, and now feel that it is probably best if, at this stage, I don't contribute to this piece of work.

As mentioned, I am currently in discussions with Minister Burch about this issue, and it would be best if I let those discussions run their course before I advocate more broadly for a CDRT.

Having said that, I think your draft submission is good, however is missing some critical points - particularly about CDRT's not simply collecting data, but, more importantly, analysing the individual stories behind a death. Also, I think the focus should shift away from care & protection (or any other subset) of children and young people. If you can hold off for another few weeks, I might be able to talk more with you?

Hope this makes sense

alasdair roy
children & young people commissioner
6205 2222
alasdair.roy@act.gov.au I ACTkids@act.gov.au

-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 20 April 2010 2:44 PM
To: Greenhalgh, Melanie
Subject: RE: Child Death Review Team

Hi Mel

Yes, that time is fine - would you like to come here?

Coincidentally, I was just talking about this with the Minister this morning, and also attended a meeting of the Australian/New Zealand Child Death Review & Prevention Group in Brisbane yesterday.

In the interim, I will have a look at what you have done so far.

Thanks

alasdair

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-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 20 April 2010 2:18 PM
To: Roy, Alasdair
Subject: Child Death Review Team

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Wanted to know if we could meet to discuss what we are thinking as your input is invaluable? I work Mon and Tues. Would you be free on Monday 3rd at 11:30am?

I have attached what is a very drafty first go. If you have any feedback at this stage that would be great.

Thanks Alasdair

Mel

Roy, Alasdair

From: Roy, Alasdair
Sent: Monday, 2 August 2010 11:13 AM
To: Greenhalgh, Melanie
Subject: RE: Child Death Review Team DRAFT IN CONFIDENCE

if that is soon enough for you, yes, suits me - shall we say 3.00pm?

(and, i hope your little fella is ok)

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au I ACTkids@act.gov.au www.ACTkids.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Monday, 2 August 2010 11:02 AM
To: Roy, Alasdair
Subject: RE: Child Death Review Team DRAFT IN CONFIDENCE

Oh bugger Alasdair - I have an appt at 4pm and my littliest boy is having an operation tomorrow. What about next Monday?

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Monday, 2 August 2010 10:56 AM
To: Greenhalgh, Melanie
Subject: RE: Child Death Review Team DRAFT IN CONFIDENCE

Hi Mel - sorry, but i now have to get to the AMC by 1.30 this afternoon - i imagine i will be back by 3.30 - i know your message says before 3.30, but would 4.00 (or later) be ok?

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au I ACTkids@act.gov.au www.ACTkids.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Monday, 2 August 2010 9:28 AM
To: Roy, Alasdair
Subject: RE: Child Death Review Team DRAFT IN CONFIDENCE

Hey Alasdair

Meredith is sick today, but I am available after 12.30pm until 3.30pm. Do you have anytimwe in that window?

Mel

-----Original Message-----

From: Roy, Alasdair

Sent: Wednesday, 28 July 2010 10:31 AM

To: Greenhalgh, Melanie

Subject: RE: Child Death Review Team DRAFT IN CONFIDENCE

Hi Melanie

Looks good - how about this Monday (2 August)? in the afternoon?

Thanks

alasdair

alasdair roy

children & young people commissioner

6205 2222

alasdair.roy@act.gov.au I ACTkids@act.gov.au www.ACTkids.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie

Sent: Tuesday, 27 July 2010 2:38 PM

To: Roy, Alasdair

Subject: Child Death Review Team DRAFT IN CONFIDENCE

Hi there Alasdair

We have started work on the CDRT legislation and would like your comments and thoughts about the very first draft. There are lots of questions to be answered and detail still to be nussed out. But it is a start and we would like to make sure it is presented sooner rather than later so that we can table in the assembly and vote on to ensure it's inclusion in the budget for next year.

Perhaps we could meet up to discuss your concerns, comments and input?

Mondays and Tuesdays work best for me.

Mel

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 27 July 2010 2:38 PM
To: Roy, Alasdair
Subject: Child Death Review Team DRAFT IN CONFIDENCE
Attachments: J2010-229-CYP(CYPDeathReview)AmBill10-D01.pdf

Hi there Alasdair

We have started work on the CDRT legislation and would like your comments and thoughts about the very first draft. There are lots of questions to be answered and detail still to be nitted out. But it is a start and we would like to make sure it is presented sooner rather than later so that we can table in the assembly and vote on to ensure it's inclusion in the budget for next year.

Perhaps we could meet up to discuss your concerns, comments and input?

Mondays and Tuesdays work best for me.

Mel

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Wednesday, 25 August 2010 9:55 AM
To: Roy, Alasdair
Subject: RE: How many children and young people died in the act in the last 12 months?

Hey Alasdair

Wont use the figure just needed to have some sense of a number.

We gave the CT an exclusive so they have the bill and the Explanatory statement etc.

Sorry I had to leave at 5.30pm yesterday and missed your email.

Meredith and Joy were on ABC 666 this morning. Looks like Joy is not supportive. There is some comment that the CYP Commissioner should already be doing this and that it will be a duplication of existing mechanisms. Also arguing that if you nioly have 2 drownings in a two year period that such a small jurisdiction couldn't gather systemic trends etc.

MH really keen for you to make public comment perhaps through a media release etc.

If you need to ring me to chat try the mobile on 0418 493 730 as I will be in and out of the Chamber today.

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 24 August 2010 5:46 PM
To: Greenhalgh, Melanie
Subject: RE: How many children and young people died in the act in the last 12 months?

to be honest, no - i think around 25/30, however i would check that before you use it

i have emailed the ED of ORS (who keep the stats), and asked him to let me know ASAP - he will probably email me later this evening - i will email you with the figure as soon as i get it (or, i will text it to meredith)

by the way, the Canberra times phoned me about a CDRT - what do they know?

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 24 August 2010 3:35 PM
To: Roy, Alasdair
Subject: How many children and young people died in the act in the last 12 months?

Do you have a rough figure?

Mel

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Wednesday, 25 August 2010 11:08 AM
To: Roy, Alasdair
Subject: RE: quick question
Attachments: Hunter Tabling Speech CYP CDRC Amendment Bill Aug 10.doc

Hey Alasdair

Here is MH speech from this mroning.

Mel

From: Roy, Alasdair
Sent: Wednesday, 25 August 2010 10:47 AM
To: Greenhalgh, Melanie
Subject: FW: quick question

for info

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au | ACTkids@act.gov.au
www.ACTkids.act.gov.au

From: Phillips, Brett
Sent: Wednesday, 25 August 2010 10:21 AM
To: Roy, Alasdair
Subject: RE: quick question

Alisdair

The numbers below include still births

Financial Year 2009 (1/7/2008-30/6/2009)
Total Deaths = 1923
Age 0-11 = 34
Age 12-17 = 5

Financial Year 2010 (1/7/2009-30/6/2010)
Total Deaths = 1816
Age 0-11 = 34
Age 12-17 = 6

Cheers

Brett

From: Roy, Alasdair
Sent: Tuesday, 24 August 2010 5:22 PM
To: Phillips, Brett
Subject: quick question

Hi Brett

One (possibly) quick question for you - any idea how many people under the age of 18 died in the ACT in 2009 (or in the 2009-2010 period)?

Would be keen to know ASAP.

Thanks

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au | ACTkids@act.gov.au
www.ACTkids.act.gov.au

Children and Young People (Death Review) Amendment Bill 2010

MLA: Meredith Hunter
Adviser: Melanie Greenhalgh

Time Limit: 20 mins **Word Limit:** 2800 **Current Words:** 2885

Mr Speaker the ACT Greens are introducing this bill today to establish a comprehensive child and young person death review mechanism in the ACT.

Whenever a child dies, we know that a community of people surrounding that child, are all affected in ways that cannot be measured. The loss of a child is not something we ever want to experience and in fact if we had the chance to prevent it – we would. This is the driving force behind the establishment of a child death review committee within the *Children and Young People Act 2008*.

When we talk about a Child Death Review Committee, we are not talking about a process which circumvents or overtakes the mechanisms we already have in place. Within the Territory there are three existing mechanisms which work to review the deaths of children and young people. These are:

The ACT Coroners Court, which must hold an inquest into the manner and cause of death of a person who dies in those circumstances set out in section 13 of the Coroners Court Act 1997.

The Clinical Review Committee within ACT Health, which is a privileged committee and the internal review process within Department of Disability, Housing and Community Services for children who have come into contact or are known to the Office for Children, Youth and Family Support.

In 2009, a memorandum of understanding was signed between ACT Health and the ACT Department of Disability, Housing and Community Services (which includes Care and Protection Services), allowing for the joint case review of clients known to both Care and Protection Services and ACT Health. The review process is conducted under the auspices of the ACT Health Clinical Audit Committee.

Cases referred to the Audit Committee include critical incidents, such as the death of an infant or child and near-miss incidents will also be reviewed in the future.

In relation to the death of a child known to Child Protection Services, currently the ACT Health Clinical Audit Committee can provide

recommendations for systemic improvements for individual agencies and for improved collaboration between ACT Health and Child Protection Services. Child Protection Services may also engage an external investigator to review a child death in some circumstances.

This new mechanism is designed to build on the existing reviews. The Children and Young People death review committee will undertake its function after any other applicable inquiry or investigation has run its course. The committee review is designed to be far broader ranging than the existing process and collate existing information to give a broad perspective on child deaths in the ACT.

Within an Australian context, child death review teams aim to identify strengths and weaknesses in system responses for the benefit of future prevention and action. Child death review teams do not aim to determine the culpability of alleged offenders or comment on the individual performance of people, nor do they investigate the causes of child deaths; that role is left to the police and coroner.

Child death review teams do not conduct interviews or meet with staff or families of the deceased, but rather rely on document analysis. Child death review teams are categorised as a second tier review mechanism,

the key contribution to be made by this mechanism is the identification of emerging trends, common themes and issues across the child deaths that have been recorded in the ACT.

New South Wales, the Northern Territory, Queensland, South Australia, Victoria and Western Australia have child death review teams and Tasmania is working on establishing one. These states and territories each conduct their review mechanisms in a slightly different way. What we propose here today is the best parts of these experiences for legislation that will work to strengthen the ACT community's ability to make recommendations and take action that can prevent future deaths of children and young people.

Many children's advocates in the ACT have long been calling for the establishment of a children and young people death review committee and there is a long history associated with the formation and development of a child death review mechanism in the ACT. Simon Corbell as the then Health Minister announced on 23rd March 2004 that "a child death review team would be established to review the deaths of people up to 17 years and 11 months". In May 2004 the Territory as Parent Report also known as the Vardon Report was released held strong recommendations about the need for a child death review team in the ACT.

In 2004 a Child Death Review Committee was formed to review child deaths that had occurred in the ACT between 1992 and 2003. The purpose was to review the deaths of children and to consider and make recommendations to address systemic social and environmental issues that were associated with children and young people.

In 2006, the committee presented its report, which showed that no child or young person known to the child protection department had died as a result of non-accidental injury inflicted by another person during that period.

Within that report entitled Review of ACT Child Deaths released by the Office of the Chief Health Officer in 2006. It was stated that “A need has been identified for appropriate legislation that will underpin the operations of the Child Death Review Team. The ACT Government Department of Disability Housing and Community Services are responsible for development of the legislation.” Following on from this there has been no progress towards the development of legislation for a Child and Young People Death Review Committee in the ACT. This means that currently there are no processes in place for the routine preparation and tabling of an annual report on child deaths in the ACT and therefore no access to information.

The child death review mechanism proposed in this bill goes beyond a statistical analysis of the figures. This is an opportunity to give the narrative context and supply a qualitative information aspect to why a child or young person has died. The aim is to improve our understanding, our responses, our planning and our policy development and ultimately help prevent such deaths in the future.

The current processes in the ACT do not feature all of the components of a child death review committee process. The proposed child death review committee has:

- a multidisciplinary panel of experts from a range of areas or backgrounds including legal, medical, child, development, child safety and the community;
- authority to review all deaths of children and young people that occur in the ACT each year;
- the ability to analyse the administrative or clinical issues as well as the wider social or contextual circumstances underlying the death;
- a systemic and preventative approach that includes analysis of the factors that contributed to the death and identification of possible strategies or means which might be used to address factors and prevent future deaths;

- an independent governance structure with legislated appointment and terms of reference; and
- transparency of process and de-identified public reporting of the outcomes of the systemic reviews.

But why is it so critical that we get this data and qualitative narrative. It is important that we understand the context and story to make sure that we can see any real trends and how we respond into the future. One example from Victoria that may illustrate the need for and benefit of CYP death review committee occurred when a mother stopped jogging to answer her mobile phone. As she bent down to write a phone number down, the pram rolled away and fell into the nearby pond. The mother believed for several hours that her baby had been kidnapped and had no idea that the pram had rolled away.

For statistical purposes this would have been recorded as a death by drowning. Of course that was the cause of death; however, the details, the story and the context allow us to understand that this was more than a drowning. The outcome from this particular review was a recommendation that in the future design and construction of public paths around waterways and water features, that the path be constructed to lean away from the water. A very simple and inexpensive strategy

recommended and the intention to ensure that in the future any vehicles with wheels such as prams, will not roll into the water and therefore work to prevent future deaths.

Another example is to look at the NSW 2008 Child Death Review Annual Report. In Section 1.2 - Drowning Deaths the report documents that:

- Twenty children died by drowning or submersion in 2008.
- This year no child with epilepsy died as a result of drowning.

Natural bodies of water

- In 2008, five children drowned in a natural body of water.
- Two of the five deaths in 2008 occurred in one incident.

Private swimming pools or spas

- In 2008, 10 children drowned in private swimming pools.
- All the deaths concerned young children aged 1–2 years accessing the pool without the knowledge of their carer. There were issues with the pool barriers, the way they were used, or both.
- All the children were engaged in free play at the time of the fatal incident.

The recommendation following on from this analysis was:

That the NSW *Swimming Pools Regulation 2008*, require local authorities to inspect all swimming pools notified within their area and monitor

compliance with the legislation. This was recommended to occur through councils developing a plan for inspection and monitoring over a period of years, and reporting periodically against the plan.

These examples of the NSW Child Death Review Team's work allows us to understand that the analysis of the circumstances surrounding the death is critical to ensuring that strategies, campaigns and indeed the spending of public funds are targeted toward the right areas.

This Bill proposes a new chapter be placed into the *Children and Young People Act 2008*, which establishes and sets out the functions, powers and processes of the Children and Young People Death Review Committee.

The functions of the committee include keeping a register of death of the children and young people that occur in the ACT and the deaths that occur outside of the ACT of children and young people who normally live in the ACT. The committee will also identify trends and patterns in relation to the deaths of children and young people and undertake research and identify future research that aims to prevent or reduce the likelihood of the death of children and young people.

The committee is required to make recommendations about legislation, policies, practices and services for implementation by the Territory and

non-government bodies to help prevent or reduce the likelihood of death of children and young people and also to monitor the implementation of the committee's recommendations.

The committee is also given the function to report to the Minister through an annual report each financial year and any other function given to committee under Chapter 19A.

The nature of the committee is structured to ensure that a multi-disciplinary team will sit at the table and without cause for blame or culpability look at the death, the context and ways it could have been prevented. This committee will include:

- The Chief Executive of the Department of Housing and Community Services;
- the Commissioner for Children and Young People;
- senior managers of Housing and Community Services, Education and Health;
- a social worker;
- an industrial engineer;
- a paediatrician with forensic child health expertise;
- a psychologist;

- a representative from the Aboriginal and Torres Strait Islander community; and
- a health practitioner.

Section 727E also defines that the chair of the committee must be appointed as an independent member of the committee without the right to vote. This appointment is modelled on the Management Assessment Panel (MAP) which operates in the office of the Public Advocate of the ACT. The independent chair is intended to ensure that the panel operates in a clear and transparent manner. This model is preferred to ensure that the committee is able to take into account the sensitive and confidential nature of the subject matter and the need for all parties and members of the committee to be transparent in ensuring that the functions of the committee are fulfilled.

The Bill sets out the criteria for appointment of committee members and the types of skills, experience, qualifications and positions that members of the committee must hold. The representation of this committee aims to broadly embody a variety of professions and fields that work with or have an interest in the safety and well-being of children and young people in the ACT.

Under a defined set of circumstances the Minister may end the appointment of a member of the committee.

The Bill provides for arrangements to be made by the Chief Executive of Disability, Housing and Community Services and the committee for public servants in the Department of Disability, Housing and Community Services to act as the administrative unit to provide support to the committee in the exercise of their functions. The administrative detail of the committee is set out in the Bill to guide the committees work plan and operation.

This Bill establishes the children and young people deaths register which must be maintained by the committee. The register contains information on the cause of death, the age and sex of the child or young person and whether the child or young person is of a Torres Strait Islander background. The register will also include whether the child or a sibling was identified under the *Children and Young People Act 2008* as being in need of care and protection within 3 years before his or her death and anything else prescribed by regulation.

The register may also contain any other demographic data available to the committee and any information about a child or young person or the

circumstances of the child or young person's death that the committee considers relevant. For example information that would provide a qualitative narrative or contextual understanding of the circumstances surrounding the death of a child or young person.

It is integral that the committee has access to the information they need to provide a clear and accurate picture of the child and young people deaths that have occurred in the ACT. The Bill provides that the committee has the power to ask people to provide it with documents relevant to the consideration of a review of a death. This power is one that is commonly given to investigative bodies and is consistent with the powers currently available under the *Discrimination Act 1991*, *Community and Health Services Complaints Act 1993* and the *Human Rights Commission Act 2005*.

The nature of this topic is both emotive and sensitive and as such the Bill has attempted to maintain confidentiality and de-indentify data used by the committee. It is well understood that we are a small jurisdiction and therefore the committee must ensure that the children and young people deaths register is accessed only by committee members, staff who are assisting in the administration of the committee as outlined in Section 727G or someone authorised by the committee to have access to the

register. The Bill proposes that a record of any access must be kept and publicised as a notifiable instrument.

The Bill also proposes that the committee must report annually to the Minister on:

- the number of deaths of children and young people;
- the age and sex of the child or young person who died and if under the *Children and Young People Act 2008* this child or young person has been in need of care and protection within a three year period before their death or is a sibling who has been identified as being in need of care and protection within a three year period before their death;
- the patterns or trends identified in relation to the death of children and young people in the ACT

The committee may also include in the annual report;

- its recommendations about legislation, policies, practices and services for implementation by the Territory and non-government bodies to prevent future deaths of children and young people;
- information about the implementation of any previous recommendations of the committee; and
- any other matters considered relevant.

The annual report ensures the information is available to the community and is a way of engaging the broader community in the implementation and monitoring of the recommendations made in the report.

The development of a child and young people deaths register allows us to develop a comparative picture of the ACT compared to the national data available and other jurisdictions.

The establishment of a Child Death Review Committee is a way to ensure that we are engaged in a process of continuous improvement and innovation in policy and practice. This will mean our work to keep all children and young people safe and well is based on relevant and meaningful evidence. I call upon all parties to provide tri-partisan support that will cement our commitment to a mechanism that will help to prevent future deaths of children and young people in the ACT.

Roy, Alasdair

From: Taylor, Kate
Sent: Tuesday, 10 January 2012 9:19 AM
To: Taylor, Kate
Subject: ACT Greens Media: Greens begin consultation on protecting people in care Bill

MEDIA RELEASE

Amanda Bresnan MLA, Health, Disability, Housing and Corrections Spokesperson, ACT Greens

10 January 2012

Greens begin consultation on protecting people in care Bill

ACT Greens Health, Disability, Housing and Corrections spokesperson, Amanda Bresnan MLA, has today released an Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 for consultation.

The draft legislation seeks to provide vulnerable people in care with a stronger complaints process that is independent of Government.

“Vulnerable people living somewhere where they are being cared for or held, have a limited ability to speak up for themselves to make sure they are treated fairly,” Ms Bresnan said today.

“That is why the community has ‘Official Visitors’ to inspect places where vulnerable people are being held or live, and advocate on their behalf if they have complaints or problems. Such facilities traditionally include mental health wards, correctional facilities, and orphanages.

“The Greens Bill proposes a number of improvements to the way Official Visitors operate, many of which have been promised by Governments over the last decade but never implemented.

“The changes seek to provide Official Visitors with greater empowerment to more strongly represent vulnerable people living in or being held in care. This will be achieved by having Official Visitors sit within the Office of the Public Advocate, and removing the direct funding relationship Official Visitors currently have with the Directorates.

“The changes also seek to broaden the scope of Official Visitors to enable them to visit places where people aren’t necessarily being held against their will, but have little choice to be elsewhere. Examples being people with disabilities in group homes, or people staying in accommodation run by a non-government provider.

“While we no longer have institutions, there are many vulnerable people being held or living in situations over which they have little choice or control. The Greens want to strengthen the ACT’s Official Visitors to give vulnerable people a voice,” Ms Bresnan said.

The Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 is available for public comment until 24 February 2012. The Bill and an accompanying discussion paper can be accessed at http://www.legislation.act.gov.au/ed/db_43749/default.asp.

NOTES

The Public Advocate (Official Visitors) Amendment Bill 2012 proposes to, in summary:

- ensure the independence of Official Visitors by having them resourced by and located within the Office of the Public Advocate, rather than the current scenario where Official Visitors are resourced by the Directorates they investigate;
- ensure all Official Visitors must address complaints in a manner that is considered to be best practice, by standardising for all Official Visitors the current requirements of the Official Visitor for Children and Young People as set out in the *Children and Young People Act 2008*;
- create two new categories of Official Visitors:
 - an Official Visitor for People with Disabilities, focusing on people who live or stay in group homes or respite accommodation, provided by government or non-government organisations; and
 - an Official Visitor for People experiencing Homelessness, focusing on people who stay in emergency accommodation;
- ensuring there is an Official Visitor for Children and Young People specifically for children and young people of Aboriginal and Torres Strait Islander descent;
- ensuring there is an Official Visitor for Corrections specifically for detainees of Aboriginal and Torres Strait Islander descent; and
- expanding the role of the Official Visitor for Mental Health by tasking them with the oversight of:
 - people who are experiencing a mental illness and are under a community care or restriction order, in addition to people receiving psychiatric treatment at an inpatient facility; and
 - facilities run by non-government organisations, including step-up step-down facilities or places of long term supported accommodation; and
- increasing the level of certification and safety of disability accommodation places, by requiring that the Community Services Directorate to maintain a register of approved disability accommodation places, and requiring that ACT Government funding not be used to pay for clients to stay at places that are not on the approved register.

Roy, Alasdair

From: Roy, Alasdair
Sent: Tuesday, 21 September 2010 3:47 PM
To: Greenhalgh, Melanie
Subject: RE: CYP Death Review Committee

Hi Melanie

That all sounds super - well done! I got to see the Cab Sub (and comment on it), so I have an idea of what type of amendments they are seeking - nothing too drastic!

Talk soon

alasdair

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tue 9/21/2010 1:49 PM
To: Roy, Alasdair
Cc: Packer, Sue
Subject: CYP Death Review Committee

Hi there

Just a quick update on the CYP Death Review Committee. I met with Minister Burch last week and she agreed that she would support the basic principle of the legislation. She said they would like to put forward some amendments. She said these would not alter the structure of the bill but perhaps enhance and define some things more clearly. I know she took it to Cabinet on Monday and from other sources I am assured that it got through.

I also met and briefed Vicki Dunne. They were not opposed either but also said they may have some amendments. We have suggested that perhaps once the government have drafted their amendments that all three parties come to the table to negotiate the amendments so that the debate on the floor is civilised and respectful of the issue.

So in order to do all of that we will bring the Bill back on for debate in the November sitting. So patience is a virtue but I think we may have this one nearly there.

I am just updating you as I am taking some leave during September/October and didn't want you thinking that this had fallen over somewhere.

Hope this finds you both well.

Mel

Melanie Greenhalgh
Advisor (works Mon/Tues only)
Meredith Hunter MLA
ACT Greens
Civic Square London Circuit
(GPO Box 1020) Canberra ACT 2602
Phone: 02 6205 0106
melanie.greenhalgh@parliament.act.gov.au

Roy, Alasdair

From: Roy, Alasdair
Sent: Monday, 11 October 2010 12:07 PM
To: Greenhalgh, Melanie
Subject: RE: Transitioning Out of Care Forum 2010

Hi Mel

Sorry, no - I was hoping to, but it is now not possible. Maybe we could up post Forum to discuss outcomes?

Hope it goes well.

See ya

alsadair

alsadair roy
children & young people commissioner
6205 2222
alsadair.roy@act.gov.au I ACTkids@act.gov.au www.ACTkids.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Monday, 11 October 2010 11:29 AM
To: Roy, Alasdair
Subject: Transitioning Out of Care Forum 2010

Hi there Alasdair

I have just gotten back from leave and noticed your name was not on the RSVP list. Are you able to make it tomorrow?

Mel

Meredith Hunter

ACT Greens MLA

***Young People Transitioning Out of
Care in the ACT:
A Discussion Forum***

The forum will consider the ACT Greens discussion paper
*“Strengthening our Support of Young People Transitioning
Out of Care: A New Framework”*

When: 12 October 2010 11.30am – 1.30pm

Light lunch provided

Where: Reception Room, ACT Legislative Assembly, Civic

Speakers will include:

- * Sue Mannion - Foster Care Association ACT
- * Dr Justin Barker – Social Researcher and Anthropologist
- * Annette Kelly-Egerton - Barnardos
- * Marion Le - Grandparents and Kinship Carers ACT

To receive a copy of the paper and RSVP please contact –

Tel: 02 6205 0106

Email: hunter@parliament.act.gov.au

by COB Thursday 7 October 2010.

Meredith Hunter

ACT Greens MLA

***Strengthening our Support of
Young People Transitioning Out of
Care: A New Framework***

October 2010

Meredith Hunter MLA Greens Member for Ginninderra
GPO Box 1020 Canberra ACT 2601 Tel: 02 6205 0106
Email: hunter@parliament.act.gov.au

Foreword

Children and young people in the statutory care system are a group in our community that require continuing commitment to their protection, wellbeing and positive development beyond their 18th birthday.

Experience gathered from the ACT by young people representing children and young people in out of home care tells us that transitioning from care is not a strong aspect of our statutory system. This often leads to a complicated range of issues left for young people to navigate and work through by themselves that can be bewildering and overwhelming.

Children and young people in our care and protection system must be given the support they need to pursue opportunities and experiences available to other young Canberrans. An accessible, resourced and responsive transition out of the care system is essential if we are to ensure that all children and young people are able to meet their potential regardless of their circumstances.

I welcome feedback on this paper and this important issue. My intention is to consult on ways to improve our current system and push for reform in this area. The information gathered from this discussion paper will form the basis of the legislation that I will introduce into the Assembly in 2011.

Meredith Hunter
October 2010

Feedback wanted

The ACT Greens welcome feedback on the proposals contained in this report by:

- *Writing to Meredith Hunter MLA, GPO Box 1020 Canberra ACT 2601;*
- *Emailing Hunter@parliament.act.gov.au;*
- *Calling (02) 6205 0106; or*
- *Registering as an interested individual/organisation to be notified of future developments on young people in care and protection.*

Feedback is asked for by 30 November 2010

Introduction

Purpose of the paper

The purpose of this discussion paper is to raise ideas and proposals about models, strategies and practices that may be employed to ensure that young people transitioning out of care are given sufficient support as they move beyond the care system and embark on adulthood.

This paper is a brief synopsis of some of the research and reports that are publicly available. It is intended to raise the issue of transitioning out of care and begin to find a way forward that will benefit all young people Canberrans in out of home care, their carers, birth families and ultimately the broader community.

A series of questions have been posed throughout the paper. Your feedback and comments are greatly appreciated on this important issue.

Policies, practice and legislation for young people leaving care

The Reality of Young People Leaving Care in the ACT

What we know is that like the national trends, children who have been placed in out of home care in the ACT have poorer life outcomes than other children (Bromfield and Osborn 2007). There are many factors which influence the life outcomes of children and young people, including the age that children enter care and the number of care placements they experience.

Young people transitioning out of care are at higher risk of and more likely to be undereducated, unemployed, to earn less, become a parent at a younger age, be involved in the juvenile justice system, become homeless, be dependent on social assistance, have mental health issues, attempt suicide, and be at a higher risk of substance abuse. Across Australia we know that in 2009:

- 64% do not have a leaving care plan
- 35% are homeless in the first year of leaving care
- 46% of boys are involved in the juvenile justice system

- 35% completed Year 12 (compared to that of the general population)
- 29% were unemployed (compared to the national average which is 9.7%)
- 28% were already parents themselves (McDowall 2009)

Although there is no national data available on the reasons children are placed in out of home care, the Australian Institute of Health and Welfare has reported that children are placed in care because; they are the subject of a child protection substantiation, their parents are incapable of providing adequate care, or alternative accommodation is needed during times of family conflict (AIHW 2009).

Children in out of home care are likely to have experienced, at a minimum, some kind of significant trauma experience or series of life disruptions and may require support to catch up on developmental stages if they are to reach their full potential.

Through recent research we know that parents with children in out of home care have shown significant risk factors. Of those parents with children in care, 32% had a psychiatric illness, 37% reported alcohol abuse, 43% reported substance abuse, and domestic violence was present in 56% of cases (Victorian Ombudsman 2009).

Educational outcomes for children in out of home care are extremely poor. This perpetuates the level of disadvantage experienced by the young person and has long lasting consequences throughout their life. Research indicates that young people leaving care have poorer educational qualifications, are younger parents, and are more likely to be homeless and have higher levels of unemployment, offending behaviour and mental health issues (Mauders et al 1999).

This is perhaps most disturbing because we know that education forms a critical aspect of achieving our hopes, dreams and needs. There is increasing recognition that education is the key to social mobility and crucial to positive life outcomes.

Research by the CREATE Foundation in 2006 indicated that young people in out of home care do not perform as well as their peers at school and are more likely to have experienced disruption through relocation or exclusion.

The educational circumstances reported by participants indicated a number of key challenges faced by children and young people in care, including that they:

- are less likely to continue within mainstream education beyond the period of compulsion;
- are more likely to be older than other children and young people in their grade level;
- attend a larger number of primary and high schools than other students; and
- miss substantial periods of school through changes of placement (Harvey & Testro 2006).

Of the young people who responded to the *CREATE 2009 Report Card* on their current activities, almost a third (29%) reported being unemployed or looking for work. A similar proportion reported being in full-time, part-time or casual work (28%). A small number were studying at TAFE (11%) and 2.8 % reported that they were at university (McDowall 2009).

CREATE has also collated information on the health outcomes of young people in care (Harvey and Testro 2006). Particular health challenges for these children include; illness and disability, higher rates of teenage pregnancy, risk-taking behaviour and self-harm, and poor access to dental, optical and aural health services. Mental health is also a significant issue for young people in care. Research by the Royal Children's Hospital Mental Health Service shows that nearly two-thirds of children and young people in out of home care had mental health diagnoses and required mental health referral (Milburn, Royal Children's Hospital Mental Health Service 2005).

Across Australia we know that periods of homelessness and contact with the justice system affect close to half of young people after they leave care. Maunders et al (1999) also noted factors that were found to inhibit transition to independence including:

- unresolved anger towards family members, workers or the system;
- unsuitable and unstable placements and multiple changes of carers and workers;
- lack of long-term goals (eg. education, vocation and living arrangements);
- lack of sufficient income;
- contact with the youth justice system and imprisonment;
- lack of preparation for leaving; and
- lack of later contact with the care system.

Recent Australian Housing and Urban Research Institute (AHURI) (2010) research indicates that up to 75% of the young people leaving care within their study experienced a volatile transition from care. In contrast to those who experienced a relatively smooth transition from care, the participants who identified a volatile pathway had experienced more complex and

chaotic housing experiences since leaving care, with periods of housing stability interspersed with periods of acute instability and homelessness.

It is certainly of concern that almost two-thirds of young people on the volatile pathway had no leaving care plan. With few housing options, little assistance or apparent concern from child protection authorities, leaving care often meant moving into tenuous housing circumstances or directly onto the streets. For these young people their abrupt break from care highlights a specific policy dilemma—young people who make a sharp break from care at 15 or 16 years of age often do so with little support, no planning, and little social, economic and cultural capital. Without these resources breaking into the housing market is difficult—getting housing at such a young age is virtually impossible (AHURI 2010).

When care leavers lose their accommodation they often experience periods of chronic instability and move in and out of homelessness. Once they are homeless, their circumstances often get worse and finding any form of housing can be particularly difficult. Most resorted to a range of stop gap measures including couch surfing at friends places. However, couch surfing often puts pressure on these relationships, which can then place the young person in danger of social isolation if they 'wear out their welcome' (AHURI 2010).

When looking at a way forward for supporting young people transitioning out of care we need to acknowledge the positive and negative factors that influence their experiences. We have to work towards supporting and replicating the positive experiences and we need to work towards changing and eradicating the negative experiences.

Young people need to be supported to develop more living skills and be supported to access employment and education opportunities in order to be expected to live independently. We must also focus on the development and support of their psychosocial and emotional skills before transition, as it plays a key role in ensuring success into the future.

When we talk about children and young people in Australia we hope for a sense of security, stability, continuity and social support as we know these are strong predictors of better life outcomes. We must question then why we have a substantial group of children and young people in the ACT who are not being afforded this minimum set of standards; particularly when we already know from research and experience that they are at risk of poorer outcomes because of circumstances beyond their control.

What we need from Governments

The implications of recent AHURI (2010) research findings are that, in order to support the process of transition to independence and to minimise the risk of homelessness, that Australian governments need to consider the following issues:

- the extension of the responsibility of State/Territory governments to provide after-care support for those who have passed through the care system at least until the age of 25;
- the responsibility of States and Territories to negotiate with the Commonwealth to provide benefits for those who have been in care;
- the need for each State and Territory government to continuously review its practices, responsibilities and role as guardian to increase consistency;
- the provision of Commonwealth benefits at the full adult rate to young people living independently after being in care who are unemployed, studying or undertaking job skills training;
- the review of case planning and preparation for leaving care to reflect community standards of leaving home at an older age and to provide flexible options for support;
- the availability of continuing support and counselling services, until the age of 25, for those who have left care;
- the provision of programs with a range of delivery options to assist transition;
- the training of workers and caregivers to implement effective programs of transition from care;
- the maintenance of family links wherever possible and offering support to families as young people move to independence;
- the provision of basic personal items and furniture to young people leaving care to establish independent living;
- the provision of an opportunity for young people to gain access to files and documents regarding their time in care, with the support of workers to explain and interpret;
- the maintenance and storage of records;
- provision for educational and literacy needs;
- provision of affordable, appropriate and stable accommodation for those leaving care for independent living;
- the review of services to Aboriginal and Torres Strait Islander young people leaving care, in collaboration with Aboriginal and Torres Strait Islander care agencies and communities to ensure that the Aboriginal placement principle works; and

- the review of transition arrangements for young women leaving care for independent living.

The research established a clear need for exit policies and procedures to assist young people to make effective transitions to independent and interdependent living. This need is reflected through many in the community who are aware that poor investment at this time and stage in the life of a young person leaving care has long standing and detrimental effects into the life stages and development into adulthood for the individual and the broader community. "A prudent economist would spend a little now to save a lot in the future. The cost of doing nothing is detrimental to young people, society and the economy at large" (Osborn and Bromfield 2007)

What currently exists in the ACT

There is currently no specific legislation in regards to leaving care plans in the ACT *Children's and Young People's Act 2008*. The CREATE Report Card 2009 reported that 118 young people would be turning 15 to 18 years of age in 2009 and that some of these would require a Leaving Care Plan (the need for a plan was described as being dependent on the orders in place).

The Department of Disability, Housing and Community Services response to the CREATE survey indicated that the current policy requires the Leaving Care Plan to cover a five year span, including the years that the young person is still in care. If planning begins at 15 a young person can be supported until they are 20 years of age. The maximum is 21.5 years old as planning must begin by 16.5 years.

The ACT currently has a Senior Compliance Officer who monitors and coordinates the development of Leaving Care Plans. The responsibilities of the officer include:

1. Reviewing the appropriateness of current planning tools.
2. Identifying the young people who require a Leaving Care Plan.
3. Ensuring that the required processes for leaving care are commenced at least 18 months prior to the date of leaving care.
4. Following through with caseworkers as required (McDowell 2009).

The CREATE report details that a leaving care plan should be used to identify key areas that need to be addressed in preparation for transitioning. The ACT Government response outlined that the plan needs to ensure that the young person's skills are developed so that they feel prepared for independent living and are confident in making personal decisions and

in seeking necessary assistance. The plan must establish appropriate connections between the young people and relevant support services and articulate follow-up procedures to evaluate outcomes.

Questions

- Do you believe that this is adequate for young people leaving care in the ACT? If so why and if not why not?
- Can you list your top three priorities for young people leaving care and protection in the ACT?
- Do you believe the ACT needs a stronger legislative base to strengthen our support of young people leaving care in the ACT? If so why and if not why not?
- Do you agree that young people transitioning out of care should be supported by the Territory until they are 25 years of age? If so why and if not why not?

Other States and Territories responses

New South Wales

The *Children and Young Persons (Care and Protection Act) 1998*, which came into effect in December 2000, includes specific provisions in Part 6 (ss 165 – 170) for leaving and after care planning and assistance for young people between the ages of 15 and 25 years who have been in out-of-home care. Under section 165(2) of the Act, young people may obtain information about available resources and services and, based on an assessment of need, assistance in obtaining accommodation and setting up house, assistance with fees for education and training, as well as help in accessing health services, finding employment and legal advice.

Specialist after-care services were established in the mid-to late 1990s and departmental regions have since received additional funding to provide brokerage funds to assist young people after they have left care.

Northern Territory

The *Care and Protection of Children Act, 2007*, states what the Chief Executive Officer (CEO) must do in regards to the transitioning of young people out of care.

Case workers are responsible for developing leaving care plans. Current policy in Northern Territory says that planning should begin from at least age 15 years. Once young people have left care they rely on their plan which should describe the supports that have been put in place for them, and who is responsible. If a young person needs extra support that is not contained in their plan, they are able to make an application for financial assistance until the age of 25 years.

When a child leaves the CEO's care, the child has a right to the possession, free of charge, of any personal material held by the Department or by any person or body who or which has provided care for the child under a placement arrangement. This includes passports, birth certificate, school reports and photographs.

The CEO must ensure that a person who qualifies for assistance is provided with services to assist the person to obtain accommodation; undertake education and training; obtain employment; obtain legal advice; access health services and access counselling services.

South Australia

The *Children's Protection Act 1993* set out the framework for transitioning from care arrangements. The policy relating to transitioning from care is called the *Transitioning from Care Policy*. Planning for leaving care in South Australia occurs from 15 years onwards and is supported by the use of a resource called the "My Stuff" Kit.

For young people still in care, social workers within the Department of Families and Community Services (DFCS) work with young people to develop a plan for living independently. A strong emphasis is placed on young people choosing other workers, support people or agencies that can get together to collaborate with DFCS social workers so that they can build up the information and skills needed with the young person. This could include working together with carers, birth families, government and non-government agency workers and other helpers.

Once young people have left care they rely on their plan which should describe the supports that have been put in place for them, and who is responsible. If a young person needs extra support that's not contained in their plan, they are able to make an application for financial assistance until the age of 25 years.

In South Australia regardless of your age, DFCS helps people who have left care with the following:

- Accessing information from case files.
- Obtaining certified copies of birth certificates.
- Financial counselling and other financial help.
- Information to help care leavers linkup with birth family.
- Developing links with services such as health, education, training and housing.
- Information about Dame Roma Mitchell Trust Fund, accessing free TAFE education or a Government Traineeship.

Tasmania

The *Children, Young Persons and Their Families Act 1997* requires that the Minister should provide services to help persons who have been under the guardianship or in the custody of the Secretary during childhood to make a successful transition to adulthood.

Child protection workers are responsible for developing leaving care plans. Current policy in Tasmania says that planning should begin from at least the age of 15 years. Once young people have left care they rely on their plan which should describe the supports that have been put in place for them, and who is responsible. If a young person needs extra support that's not contained in their plan, they are able to make an application for financial assistance until the age of 24 years.

This assistance is mainly provided by the After Care Support Service which aims to:

- assist adult care leavers to understand information contained within their personal files held by the Department of Health and Human Services;
- assist adult care leavers to make contact with family members and significant others;
- refer adult care leavers to appropriate community based organisations including the CREATE Foundation and Care Leavers Australia Network (CLAN);
- provide financial assistance to eligible care leavers.

Western Australia

The *Children and Community Services Act 2004* provides in Division 6 that care plans are to be modified 12 months prior to a child or young person leaving the CEO's care. If the child or young person has a disability the care plan is to be modified two years prior to the child or young person leaving the CEO's care. This ensures that the child or young person is prepared to leave care and provided with any social services that the CEO considers appropriate, having regard to the needs of the child or young person as identified in the care plan.

Young people may qualify for assistance if they have reached 15 years of age and are under 25 years of age. The young person must have left the CEO's care, have been the subject of a protection order (time-limited or until 18 years), or a negotiated placement agreement for at least six months, or provided with placement services for a continuous period of at least six months prior to leaving care.

When a child leaves the CEO's care, the child has a right to the possession, free of charge, of any personal material held by the department or by any person or body who or which has provided care for the child under a placement arrangement. This includes passports, birth certificate, school reports and photographs.

The CEO must ensure that a person who qualifies for assistance is provided with services to assist the person to obtain accommodation; undertake education and training; obtain employment; obtain legal advice; access health services and access counselling services.

The CEO may provide a person who qualifies for assistance with financial assistance in the form of a contribution to expenses incurred in obtaining, furnishing and equipping accommodation; a contribution to expenses incurred by the person in living near the place where the person is, or will be employed or seeking employment; or undertaking education or training. The CEO may also provide a grant to enable the person to meet expenses connected with his or her education or training. Financial assistance may also be provided on any terms and conditions that the CEO considers appropriate. The legislation also stipulates that the terms and conditions may include provisions as to repayment and the recovery of outstanding amounts by the young person.

There are currently four funded leaving care or after care specialist services in Western Australia. These services are structured to provide assistance and support to young people who are in foster care, are in the care of Department of Child Protection, have left foster care or a group home or are preparing to leave care.

Victoria

The *Children, Youth and Families Act 2005* provides that young people on custody and guardianship orders are able to access support and assistance up to the age of 21 years.

The Department of Human Services (DHS) is currently reviewing the leaving care processes for children and young people in Victoria. All children and young people engage with their workers to develop a plan for when they are in care and when they are transitioning into

independent living. The young people do self assessments and workers have regular meetings with them so that they always know what their worker is doing and the workers always know how children and young people are feeling.

The DHS is currently in consultation with agencies and service providers. Together they are developing a plan to support young people who are transitioning into independent living. It is envisaged that every young person will have a care team. A care team will be a group of people that are linked to the young person and through a variety of ways can work together to make decisions with and on behalf of the young person about their future.

Queensland

Within Queensland there is a formal process called Transitioning from Care (TFC) which involves planning for the time when a young person will no longer be in care. Once a young person turns 15 years, a Child Safety Officer (CSO) starts talking about planning for the future and what happens when the child protection order ends. The CSO along with the young person develops a TFC plan that looks at the goals the young person wants to achieve and how they plan to do this.

Depending on the transition from care goals in the case plan, the department may help with:

- accessing financial or study assistance
- maintaining bank accounts
- payment for a course of study/ apprenticeship/traineeship
- obtaining a drivers licence
- developing life skills and attending courses such as life skills workshops, cooking or budgeting
- living in semi-supported accommodation or living independently
- accessing counselling and support services
- transport to visit/reconnect with birth family
- accessing creative musical/ artistic/sporting activities that support personal and cultural development and social networks.

There is a limit to the amount of money the department will contribute to assist a young person to transition from care, so young people are encouraged to prioritise their goals.

The TFC plan is reviewed as part of the case plan every six months. At this review changes may be made to the goals and plan.

There is a strong emphasis on the young person directing the plan and what should be in the plan. They are asked to work out their priorities when it comes to what they need support with.

Questions

- *Having some brief information about how other jurisdictions work in the area of young people leaving care, is there anything from these descriptions that you believe the ACT should investigate implementing or implement?*
- *Do you believe there is benefit in the development of an after care service to facilitate the successful and supported transition out of care? If so why and if not why not?*
- *What would you like after care services to assist care leavers with?*
- *Would after care services be best placed within government or a non-government setting? Why?*

Effective models of support

A CREATE Action Plan from the National Youth Advisory Council (2010) recently outlined the desired strategies and outcomes young people wanted for themselves when leaving and transitioning out of care. This is an extremely useful document and should be used to help formulate the way forward for the ACT. Young people identified the following as critical in the development of a transitioning from care framework:

- Young people in care receive material and non-material support from the ages of 15 to 25 years.
- Support to be coordinated at a service level by specialised Transition from Care team in the ACT.
- Children and young people in care within the ACT be given standardised information to increase awareness, interest and participation in their case planning.
- During transition and leaving care planning there be scheduled, frequent and positive contact between children and young people in care and their case workers.
- That there is a focus on strengths based approach that recognises the achievements in all areas of children and young people's lives.
- That a higher priority is placed on programs, policies, practices and services which increase the chances of a young person succeeding in their education.

- As children and young people become able to communicate their wishes that future contact and development of relationships with birth families and their expectations of continued relationships with foster care placements are included in planning processes.

Research conducted by Maunders et al. (1999) found that effective models of support must take account of the need to provide a continuum of care for children so that they can make a graduated transition from care to increasing independence as they mature and grow. A general model including three components was proposed through this research whereby there is a preparation phase, a transition phase and an after care phase.

The preparation phase is achieved through:

- a high quality, stable system of care;
- improved case practice and planning; and
- a flexible support continuum which emphasises interdependence, i.e. the notion that well-functioning adults continue to receive support from others (Maunders et al 1999).

Proper planning and preparation for leaving care that involves the young person is integral in helping them adjust to the demands of greater independence and the development of skills, knowledge and supports that will help them transition in a positive way. The trend is to start preparing young people for the change of their status some time before the transition, currently within the Australian context this is generally two to three years. If we are able to support young people while they are in care, in terms of 'good parenting' and 'best practice', providing stability and security, and encouraging the development of social and practical skills, this provides the best possible preparation for their life after care. While this is very important when the young person is in care, it is also critical that we establish after care services and supports so that young people have every opportunity to develop the life skills to manage greater independence.

Directly addressing the specific issues associated with leaving care involves another 'tricky balance' between helping them to prepare for and adjust to the expected changes and the risk of destabilising the placement by focusing on its ending. This might, however, be counterbalanced by including in the package of living skills those that are highly valued by young people as positive indicators of adult status. Current practice in Australia is to fund driving lessons and encourage young people to earn their own income through part-time work. It is also critical that where possible foster carers and the community young people have connected with during their stable foster care placements are included in the planning

and given the opportunity, and supports, to maintain and have a positive relationship with the young person into the future.

A framework of transition strategies should include:

- assistance for young people to develop personal and social networks;
- provision of effective support and living skills programs;
- provision of essential and appropriate information to young people about their past, and their options for the future; and
- the involvement of suitable mentors (Mauders et al 1999).

Most jurisdictions require that some planning occur from 15 years of age. Therefore this phase overlaps with the preparation phase. The transitioning phase encompasses many opportunities for young people, their carers and the support services around them. This is a time when consolidation needs to occur about their life stories, collecting together belongings and ensuring that their own narrative is clear for their future life in relationships, having children of their own and becoming happy adults who can contribute to the community in which they live.

Within the working document for the development of the National Standards for Out of Home Care - standard 14 states that young people have a transition from care plan commencing at 15 years of age which is reviewed at least annually. It also details support to be provided after leaving care and involves children and young people in its preparation.

The context provided for this standard says, "It's time to leave sounds easy, but transitioning out of care can be one of the most difficult stages. Children and young people should keep special memories and information about their time with families so they can maintain a sense of identity. Young people moving to an independent life will need emotional resilience as much as practical help to prepare for the future." (p4 FaHCSIA 2010)

The transition phase usually involves moving to independent living and having access to the supports that can assist young people to find and maintain suitable accommodation and entry into education, training or employment. Leaving care or after care services may also have a role in this phase ensuring that the actual move to independent living is supported and assisted to develop positive linkages and support within the community.

During this time young people may consolidate previous life skills development by participating in programs, courses or family activities that promote the development of skills that they will need to be successful at living independently. This is a complex area and one

that requires more than a one off intervention. It requires a lifetime of learning to be supported by the authorities who have had responsibility for the safety, wellbeing and healthy development of a child into an adult.

Young people may also need increased supports in the area of contact with birth family. It is not uncommon for young people to want to establish or reconnect with birth families and this can have positive and negative impacts on the life and mental health of the young person. Providing young people with options and information about how to negotiate these relationships in a way that allows positive development in the young person is essential and a skill for life.

Foster carers and young people may also need support to navigate what their family will continue to look like. Where the young person has had stability in their placement, providing supports, opportunities and strategies to maintain foster family connections can be critical in achieving positive outcomes.

It is recognised as essential that after care include continuing access to support, resources and interest from care agencies (Maunder et al 1999).

Aftercare in the ACT is one of the areas where improvements need to be made. It is important that after care provides for supports that are empowering for the young person and not a process of coming cap in hand to receive assistance. After care supports need to be broad ranging and offer young people ways to work towards and achieve their life goals.

Several jurisdictions have moved towards establishing funded aftercare support services that aim to provide a range of supports to young people who are transitioning out of care. The establishment of after care services is seen as a way to strengthen the collaboration between the government and non-government sectors to fulfil the responsibilities we have to young people who have been in the statutory care system.

After care services are critical when we couple this with the knowledge that currently young people in families have a tendency to remain reliant on their family for support as they make the transition to independent adulthood. This has been an increasing trend as young people remain living at home and often financially dependent until a much older age than was once traditionally expected. Generally, young people leaving the care of the Chief Executive do not have these supports in their transition to independent living and as previously outlined experience increased risks while they are transitioning.

Because independent living skills are most commonly developed while living in a stable family setting, young people who have experienced multiple placements or who lack established networks may be at risk of missing, or may have already missed, the development of important life skills that assist in the transition to living independently. The idea behind leaving care or after care services is to draw on the strengths of young people and assist them to develop and enhance skills and help build support networks before, during and after transition.

Questions

- *What models of support would you propose as effective to assist young people through transition out of care?*
- *How would you propose that we improve the current transitioning out of care arrangements to ensure that young people have positive outcomes?*

Proposals

Proposal 1: Young People in Care receive material and non-material support from the ages of 15 to 25 years.

Proposal 2: Every young person leaving care should have a plan that includes the following:

1. Family support: Information and advice about other agencies that can help with family searching and family mediation.
2. Housing: Financial assistance and support to help find sustainable accommodation and contingency planning for the future.
3. Education: Assistance in finding the right education and training options available.
4. Employment: Assistance in finding employment.
5. Counselling: Counselling and other services.
6. Documentation: Help with accessing personal documentation.

Proposal 3: Every young person leaving care has a right to:

The possession, free of charge, of any personal material held by the Department or by any person or bodies who or which has provided care for the child under a placement arrangement. This includes passports, birth certificate, school reports and photographs.

Proposal 4: Establishment of a specific after-care support service to support young people leaving care.

Proposal 5: Secure a specific funding pool within ACT Care and Protection Services to provide financial supports for young people transitioning out of care in the ACT.

Conclusion

The *Children and Young People Act 2008* is a very large piece of legislation that covers the entire spectrum of life for a child or young person in the ACT from birth to 18 years of age. The purpose of the Act is to maintain the wellbeing and safety of children and young people. The protection and wellbeing of our children and young people is of vital importance and undoubtedly a principle we all agree on.

This legislation also plays a part in maintaining appropriate supports and protection of young people who transition out of care. Given the nature of the subject matter it will of course be necessary that from time to time it requires reform and changes to maintain and meet community standards.

There has to be a shared vision for what we want as a community for young people regardless of their circumstances. In order to achieve parity and equity it is sometimes necessary to reform or develop legislation and policies. This paper is about gaining information from the broader community and having a clear understanding of how we can make positive change that will ensure that all young people transition out of care in a manner that promotes good health, wellbeing and the ability to have every success in the future.

Feedback wanted

The ACT Greens welcome feedback on the proposals contained in this report by:

- *Writing to Meredith Hunter MLA, GPO Box 1020 Canberra ACT 2601;*
- *Emailing Hunter@parliament.act.gov.au;*
- *Calling (02) 6205 0106; or*
- *Registering as an interested individual/organisation to be notified of future developments on young people in care and protection.*

Feedback is asked for by 30 November 2010

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Costello, Sean

From: Watchirs, Helen
Sent: Tuesday, 1 February 2011 12:22 PM
To: Greenhalgh, Melanie; Roy, Alasdair
Cc: Costello, Sean; McKinnon, Gabrielle
Subject: RE: Briefing for Meredith Hunter re. Bimberi

Dear Mel,
Tuesday afternoon 22 February is fine with me. I wrote a letter about restraints so will ask Sean/Gabrielle follow up

Regards,
Helen.

Dr Helen Watchirs OAM

ACT Human Rights and Discrimination Commissioner Level 4, 12 Moore Street Canberra City ACT 2601 Tel (02) 6205 2222 Fax (02) 6207 1034 The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 1 February 2011 12:19 PM
To: Watchirs, Helen; Roy, Alasdair
Subject: RE: Briefing for Meredith Hunter re. Bimberi

I am so sorry but 15th is first sitting day. I spoke with Meredith and it is not urgent so if possible could we meet up on Tuesday 22 Feb?

At the moment she is available between 1:30pm and 5:00pm.

Meredith has also asked if there is any public record of the outcome of Helen's investigation into restraints. We have asked several questions and received numerous briefings on restraints etc and wanted to clarify the dates of the reported incidents and the briefings we received.

Thanks

Mel

-----Original Message-----

From: Watchirs, Helen
Sent: Monday, 31 January 2011 4:46 PM
To: Roy, Alasdair; Greenhalgh, Melanie
Subject: RE: Briefing for Meredith Hunter re. Bimberi

Dear Mel & Alasdair

I can do 15 February as long as we finish by 1.30pm, so I can make it to AMC by 2pm for meeting/inspection.

Regards,
Helen.

Dr Helen Watchirs OAM

ACT Human Rights and Discrimination Commissioner Level 4, 12 Moore Street Canberra City ACT 2601 Tel (02) 6205 2222 Fax (02) 6207 1034 The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

-----Original Message-----

From: Roy, Alasdair

Subject: Briefing for Meredith Hunter re. Bimberi

Hi there Alasdair and Helen

Happy new year to you both. I hope you have managed to get some well earned rest and time away from the job to recharge.

Meredith has asked me to see if you both might be available to get a quick briefing on Bimberi Independent Inquiry and Human Rights Audit.

Can you let me know if you have a Monday or a Tuesday free in the next couple of weeks to meet with us?

Kind regards

Melanie Greenhalgh
Children and Young People Advisor
Meredith Hunter MLA
ACT Greens
Civic Square London Circuit
(GPO Box 1020) Canberra ACT 2602
Phone: 02 6205 0106
melanie.greenhalgh@parliament.act.gov.au
Note: Works Mon/Tues only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Monday, 7 February 2011 9:57 AM
To: Roy, Alasdair; Watchirs, Helen
Subject: RE: Briefing for Meredith Hunter re. Bimberi

Hi Helen and Alasdair

2:00pm on Tuesday 22nd it is.

Following on from the weekend we may need to catch up before the next sitting week. MH is trying to call you Alasdair.

Thanks again

Mel

-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 1 February 2011 6:01 PM
To: Greenhalgh, Melanie; Watchirs, Helen
Subject: RE: Briefing for Meredith Hunter re. Bimberi

Hi all - how about 2.00pm on Tuesady 22nd?

alasdair

-----Original Message-----

From: Greenhalgh, Melanie
Sent: Tuesday, 1 February 2011 12:19
To: Watchirs, Helen; Roy, Alasdair
Subject: RE: Briefing for Meredith Hunter re. Bimberi

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Subject: RE: Briefing for Meredith Hunter re. Bimberi

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Regards,

Helen.

Dr Helen Watchirs OAM

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ACT 2601 Tel (02) 6205 2222 Fax (02) 6207 1034 The ACT Human Rights Commission releases a
quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

-----Original Message-----

From: Roy, Alasdair

Sent: Monday, 31 January 2011 4:12 PM

To: Watchirs, Helen; Greenhalgh, Melanie

Subject: RE: Briefing for Meredith Hunter re. Bimberi

sorry, i have meetings all tuesday afternoon - how about any time the following tuesday
(15th) - i am free all day

-----Original Message-----

From: Watchirs, Helen

Sent: Monday, 31 January 2011 3:46 PM

To: Greenhalgh, Melanie; Roy, Alasdair

Subject: RE: Briefing for Meredith Hunter re. Bimberi

Dear Mel,

I'm free all afternoon on 8 February so am happy to fit in

Regards,

Helen.

Dr Helen Watchirs OAM

ACT Human Rights and Discrimination Commissioner Level 4, 12 Moore Street Canberra City
ACT 2601 Tel (02) 6205 2222 Fax (02) 6207 1034 The ACT Human Rights Commission releases a
quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie

Sent: Monday, 31 January 2011 3:43 PM

To: Roy, Alasdair; Watchirs, Helen

Subject: RE: Briefing for Meredith Hunter re. Bimberi

Hi there

Meredith is busy at 10am but could do between 12:30 and 2:00pm or 4pm on Tuesday 8
February.

Could any of those times work?

Mel

-----Original Message-----

From: Roy, Alasdair

Sent: Monday, 31 January 2011 2:57 PM

To: Greenhalgh, Melanie; Watchirs, Helen

Subject: RE: Briefing for Meredith Hunter re. Bimberi

hi all- how does 10.00am on tuesday 8 february sound?

alasdair

alasdair roy

children & young people commissioner

6205 2222

alasdair.roy@act.gov.au I ACTkids@act.gov.au www.ACTkids.act.gov.au

-----Original Message-----

From: Greenhalgh, Melanie

Sent: Friday, 28 January 2011 1:43 PM

To: Roy, Alasdair; Watchirs, Helen

Subject: Briefing for Meredith Hunter re. Bimberi

Hi there Alasdair and Helen

Happy new year to you both. I hope you have managed to get some well earned rest and time away from the job to recharge.

Meredith has asked me to see if you both might be available to get a quick briefing on Bimberi Independent Inquiry and Human Rights Audit.

Can you let me know if you have a Monday or a Tuesday free in the next couple of weeks to meet with us?

Kind regards

Melanie Greenhalgh

Children and Young People Advisor

Meredith Hunter MLA

ACT Greens

Civic Square London Circuit

(GPO Box 1020)Canberra ACT 2602

Phone: 02 6205 0106

melanie.greenhalgh@parliament.act.gov.au

Note: Works Mon/Tues only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Monday, 21 March 2011 4:18 PM
To: Roy, Alasdair; Packer, Sue
Subject: CYP Death Review Committee

Dear Alasdair and Sue

Just a quick email to send you the link to the amendment to the CYP Act 2008 which will now include the CYP Death Review Committee.

<http://www.legislation.act.gov.au/a/2011-9/>

There was lots of argy bargy (very technical term I know) in the end and we had to give a little to gain a lot. I wanted to say thank you for your advice and help on this one and I really hope that this fills the space we have known about for so many years.

I am as always willing and keen to hear feedback about some of the things that might need change in the future and if any parts of the legislation don't work particularly well. We got a back dating of data so we will have some statistics to inform us into the future.

I hope you are both proud for keeping this on the agenda for all those years. I know I am super happy that we achieved this together.

Kind regards

Melanie Greenhalgh
Advisor
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: melanie.greenhalgh@parliament.act.gov.au
Note: Works Monday and Tuesday only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 26 July 2011 1:52 PM
To: Roy, Alasdair
Subject: Awaiting answer from Rattenbury

Hi Alasdair

I have spoken with Shane and he has alerted me to the fact that he is away on Friday and that AG will be handing it over to Mary as Deputy Speaker. He is going to check with the clerks office about protocol and I expect to have an answer asap.

As this is not a common procedure he is pretty confident that a representative from the speakers office etc will be able to email or ring you to let you know that the Authorisation for Publication has been signed off on.

Will call or email later this afternoon with more definitive answer for you.

Melanie Greenhalgh
Advisor
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: melanie.greenhalgh@parliament.act.gov.au
Note: Works Monday and Tuesday only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 11 October 2011 1:45 PM
To: Roy, Alasdair
Subject: CYP Death Review Committee

Hi there Alasdair

Hope you are well and have recovered from the monumental task of putting that report together.

Have just come back from leave and noticed that Dr Judith Gibson has been appt as the chair of the CYP Death Review Committee. Do you know of her? Any other ideas about who is on the committee?

Also noticed your article in the paper today. We will ask questions during estimates but is there anything else you need from us in the mean time. A double sitting week is coming up.

Melanie Greenhalgh

Advisor

Office of Meredith Hunter MLA

ACT Greens Parliamentary Convenor

Member for Ginninderra

Phone: (02) 6205 0106

Fax: (02) 6205 0418

Email: melanie.greenhalgh@parliament.act.gov.au

Note: Works Monday and Tuesday only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Tuesday, 18 October 2011 8:57 PM
To: Roy, Alasdair
Cc: Woodman, Marion
Subject: RE: Meeting next Monday

Alasdair - I did mean the 24th. Sorry.

Marion can you place a meeting with Alasdair into the diary from 3pm to 4pm on Monday 24th Oct. Looks like MLA meeting wont go ahead.

Thanks heaps

Mel

From: Roy, Alasdair
Sent: Tuesday 18 October 2011 18:32
To: Greenhalgh, Melanie
Subject: RE: Meeting next Monday

Hi Mel

Thank you that sounds fine (I assume you mean Monday 24th?).

alasdair

(message sent from my ipad)

From: Greenhalgh, Melanie
Sent: Tuesday 18 October 2011 4:26 PM
To: Roy, Alasdair
Subject: Meeting next Monday

Hi there Apologies for not getting back to you sooner.

Was trying to squeeze you in next Monday do you think you could do 3pm – 4pm on Monday 25th October?

Mel

Melanie Greenhalgh
Advisor
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: melanie.greenhalgh@parliament.act.gov.au
Note: Works Monday and Tuesday only

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Monday, 7 November 2011 9:25 AM
To: Roy, Alasdair
Subject: FW: QWN taken ON - Bimberri Segregation Coree holding cell.
Attachments: QWN taken ON (Lecouteur) - Bimberri Segregation Coree Holding Cell.pdf

Hi Alasdair

Received answer to QWN taken on notice.

Any thoughts?

Mel

Melanie Greenhalgh
Advisor
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: melanie.greenhalgh@parliament.act.gov.au
Note: Works Monday and Tuesday only

MINISTER FOR COMMUNITY SERVICES

**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION**



20 October 2011

**Question Without Notice - Taken On Notice
Response by Minister**

During Question Time on 20 October 2011, the Chief Minister on behalf of myself as the Minister for Community Services, took a question on notice from Ms Le Couteur regarding on what basis does the government dispute the commission's finding that a Coree holding cell is regularly used to segregate young people who refuse to attend or misbehave in class, and what measures are you taking to ensure that this is not the case?

I would like to inform the Assembly that segregation under the *Children and Young People Act 2008* Division 6.6.3, Subdivision 6.6.3.1 General, Section 204, defines segregation as:

- (a) Means the restriction or denial of the young detainee's opportunity –
- (i) To go into, or be in, a particular part of a detention place; or
 - (ii) To associate with other young detainees; and
 - (iii) Includes separate confinement.

There are no young people who have been segregated, as per Section 204 of the *Children and Young People Act 2008*, due to misbehaviour or not wanting to attend school.

Young people are required to attend the general accommodation area of the Coree Unit, for operational supervision purposes when they choose not to engage in education or training programs. These young people are not placed in a holding cell for the purpose of refusal to engage in education or training.

Approved for circulation to the Member and incorporation into Hansard.

Joy Burch MLA
Minister for Community Services

Date: 11.11.11

Roy, Alasdair

From: Greenhalgh, Melanie
Sent: Monday, 7 November 2011 9:28 AM
To: Roy, Alasdair
Subject: Bimberi Taskforce
Attachments: 20111107082557113.pdf

Hi Alasdair

FYI

Any thoughts?

Mel

Melanie Greenhalgh
Advisor
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: melanie.greenhalgh@parliament.act.gov.au
Note: Works Monday and Tuesday only

-----Original Message-----

From: MLA_HunterOfficeMFD@parliament.act.gov.au
[\[mailto:MLA_HunterOfficeMFD@parliament.act.gov.au\]](mailto:MLA_HunterOfficeMFD@parliament.act.gov.au)
Sent: Monday, 7 November 2011 9:26 AM
To: Greenhalgh, Melanie
Subject:

This E-mail was sent from "LAB00L01P29" (Aficio MP 2851).

Scan Date: 07.11.2011 08:25:56 (+1000)
Queries to: MLA_HunterOfficeMFD@parliament.act.gov.au

MINISTER FOR COMMUNITY SERVICES**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY QUESTION****20 October 2011****Question Without Notice - Taken On Notice
Response by Minister**

During Question Time on 20 October 2011, the Chief Minister on behalf of myself as the Minister for Community Services, took a question on notice from Ms Hunter in relation to the Human Rights Commission Report into the youth justice system, given that many community stakeholders have been very active in trying to be involved in solutions to help these young people.

Ms Hunter asked what mechanisms will be put in place to ensure that there is a clear means for them to continue to contribute to the reform process?

I would like to inform the Assembly that the development and implementation of the 'Blueprint for Youth Justice in the ACT' will be undertaken by the Youth Justice Implementation Taskforce over the next 12 months. The Taskforce has eleven members representing many different Government agencies and community organisations. Three members of the Taskforce are from the community sector, including the Director of the Youth Coalition of the ACT, the Chair of the Aboriginal and Torres Strait Islander Elected Body and the Director of the Richmond Fellowship. There will be both broad and targeted consultation with many different stakeholders during the development of the Blueprint.

The Blueprint will include a number of specific areas of consultation. For example, a youth and family engagement strategy will be developed as part of the Blueprint. The Government has also noted the importance of culturally relevant and sensitive programs that will assist in reducing the offending rate of Aboriginal and Torres Strait Islander young people and will develop an appropriate consultation strategy under the Blueprint with the Aboriginal and Torres Strait Islander community.

Approved for circulation to the Member and incorporation into Hansard.

Joy Burch MLA
Minister for Community Services


Date: 1.11.11



**ACT HUMAN RIGHTS
COMMISSION**

Australian Capital Territory

Amanda Bresnan MLA
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

Dear Ms Bresnan

Exposure Draft: Public Advocate (Official Visitors) Amendment Bill 2012

Thank you for the opportunity to comment on the Exposure draft of the Public Advocate (Official Visitors) Amendment Bill 2012 (the Bill).

Official Visitors play a critical role in protecting the human rights of people in the Territory, particularly those in closed environments, and in other vulnerable positions. The Commission welcomes the ACT Greens' proposal to extend the current Official Visitor scheme to provide Official Visitors for people with disabilities and for people experiencing homelessness. We also support the extension of the role of Mental Health Official Visitors and a legislative requirement to appoint an Aboriginal and Torres Strait Islander Official Visitor for Children and Young People and for Corrections.

Nevertheless, we consider that the functions and powers of each of these Official Visitors and their relationship with other oversight agencies raise complex issues and requires more detailed consideration prior to any change. The proposed standardisation of the functions of all Official Visitors, with more formal requirements for complaint handling, may create some overlap with the role of other complaint handling agencies such as the Commission or the Ombudsman, unless these roles and referral requirements are more clearly delineated.

The Commission recognises the need to ensure the independence of Official Visitors from the agencies they oversee, and supports the proposed co-location of Official Visitors in an independent office. However, we consider that it is important to ensure that the separate identity of the Official Visitors is not diluted in any co-location, and that Official Visitors continue to have a voice and role independent of other statutory office holders, including the Public Advocate, if they were to be located there.

Our more detailed comments on the key proposals in the Bill are set out below.

Independence of Official Visitors

The Commission acknowledges the inherent tension in Official Visitors being employed and resourced by the Directorates that they oversee. Although we are not aware of specific difficulties currently arising from this relationship, there is potential for the independence of Official Visitors to be compromised by this funding arrangement.

In the Commission's Report to the ACT Legislative Assembly on the ACT Youth Justice System (Bimberi Report), we also noted the challenge of isolation for the Official Visitor for Children and Young People, particularly as there is currently only one person appointed to this role. In our view, Official Visitors may benefit from the collegiality and support of co-location with other Official Visitors.

We consider that it would be appropriate for Official Visitors to be located with and resourced by a statutory agency which is independent from Government.

Nevertheless, in our view it is important that the roles and identities of the Official Visitors and the statutory agency remain distinct in any co-location arrangement. If Official Visitors were to be subsumed to become part of another office this would effectively reduce the number of independent oversight mechanisms operating in the Territory and could potentially diminish the protection for vulnerable people.

The Commission notes that in clause 13G of the Bill it is proposed that the Public Advocate be given a number of supervisory functions in relation to Official Visitors:

- (a) to oversee and coordinate the activities of official visitors
- (b) to meet with the official visitors at least once every year
- (c) to represent official visitors
- (d) to prepare and circulate publications explaining the role of official visitors
- (e) to supervise the training of official visitors
- (f) to report to the Minister on the work and activities of official visitors

In our view these functions (apart from the requirement to meet with Official Visitors in (b)), could potentially reduce the independence of Official Visitors, as it would appear to allow the Public Advocate to determine or guide the activities of Official Visitors, and to speak on their behalf to the Minister. The Commission considers that it would be more appropriate for the Public Advocate, or other statutory office, to provide administrative support and resourcing only, to preserve the independence of Official Visitors to determine their own activities (within the scope of their duties and subject to the legislative requirements regarding frequency of visits and complaint handling) and to report directly to the Minister.

Although we would have concerns about a direct supervisory relationship in relation to Official Visitors, regular meetings of Official Visitors and other oversight agencies can be an important mechanism for information sharing and professional support. We note that in accordance with recommendation 15.7 of the Bimberi Report, the Commission now convenes a monthly meeting of agencies with external oversight roles at Bimberi Youth Justice Centre, being the Official Visitor, Public Advocate, Children and Young People Commissioner and the Human Rights and Discrimination Commissioner. These meetings have proven very useful, allowing agencies to share information and take a co-ordinated approach in relation to systemic concerns, best interest issues and complaint-handling, drawing on the complementary jurisdictions and responsibilities of each agency.

General Responsibilities of Official Visitors

Under the Bill, it is proposed that the powers and duties of Official Visitors be standardised in line with the most recent legislative model developed in the *Children and Young People Act 2008* (CYP Act). While there are advantages to standardisation, we consider that it would be useful as a first step to clearly map out the differing roles and functions of the various agencies with an oversight role in relation to each visitable place and to better define the relationship between each agency to ensure that resources are used effectively, and that the model in the CYP Act is the most appropriate.

We note that the CYP Act provides for a more formal complaint handling role for the Official Visitor for Children and Young People than is currently the case for Corrections Official Visitors or Mental Health Official Visitors, including requirements for each complaint to be notified in writing to the Director General, and a formal process in relation to the withdrawal and closure of complaints. However, although it gives the Official Visitor discretion to refer complaints to other investigating entities it does not provide guidance as to when referrals are appropriate. In practice, the Official Visitor for Children and Young People has formed effective relationships with the Public Advocate and the Commission, and these agencies have developed protocols for referring matters between agencies as appropriate to avoid duplication of investigation, complaint handling, best interests advocacy and systemic policy work, while retaining a 'first door is the right door' approach for children and young people. Nevertheless, we have concerns that in other areas, the adoption of new more formal complaint handling powers by Official Visitors may significantly change their role or approach. These requirements may result in a greater administrative burden on Official Visitors and may duplicate the more formal role of complaint handling entities such as the Ombudsman and the Commission.

These issues are complicated by the different range of oversight agencies with different functions in relation to the areas covered by the existing and proposed new Official Visitor roles. For children and young people, the Official Visitor, the Public Advocate and the Commission operate at different levels of scope and formality, with the Official Visitor dealing with matters arising within Bimberri or Marlow Cottage, while the Public Advocate has a broader remit to advocate for the best interests of children and young people in detention and in the care and protection system, and finally, the Commission has a more formal role in considering complaints relating to services for children and young people throughout the Territory. However, in other areas the intersection of jurisdictions is different, and in the case of adults in emergency accommodation provided by non-government organisations, there may be no other oversight agency to which complaints can be referred. In our view this complexity may require a more nuanced approach than suggested in the adoption of standardised functions and powers for all Official Visitors.

In addition to the potential differences in the scope of the Official Visitor role, depending on the context and interaction with other agencies, there may also be practical differences in approach. For example, we note that the provision in clause 13M(3) of the Bill, based on s44(3) of the CYP Act obliges an Official Visitor to comply with the request of an entitled person to hear their complaint with no-one else present. This provision is not currently mirrored in the *Corrections Management Act 2007*, and this difference may reflect the differing risks presented by young people in detention compared with adult detainees. While it would generally be the practice of a Corrections Official Visitor to visit a detainee alone, in some cases this may be unsafe and alternative arrangements may be required. It would be appropriate to qualify this provision to ensure that the safety of Official Visitors is properly balanced against confidentiality of complaints.

New Official Visitors and new standards for disability accommodation

Official Visitor for People with Disabilities/Disability standards

The Commission supports the proposal for a new Official Visitor for people with disabilities. The Disability and Community Services Commissioner within the Commission has a role as an oversight agency for disability services, and is able to take complaints relating to these services. However, the Disability and Community Services Commissioner does not have the resources to conduct regular service visits, and is reliant on individuals or their advocates contacting us with their concerns. In our view an Official Visitor for People with Disabilities would provide an important role in identifying issues on the ground and advocating for people in disability accommodation. Nevertheless, the scope of 'disability accommodation' which would be overseen by an Official Visitor is not entirely clear. The Bill would amend the *Disability Services Act 1991* (DS Act) to provide that a 'visitable place' is 'disability accommodation provided by the Territory or a grantee.' It is not clear if this disability accommodation would extend to private accommodation for a person with a disability which is all or partly funded by the Territory. We consider that the role of an Official Visitor who visits people in disability accommodation would need to be more clearly defined to ensure that the privacy and equality rights of individuals are appropriately respected. Different approaches may be required in relation to an individual's private accommodation than for group disability accommodation provided by the Territory or another organisation.

The Commission welcomes the proposal to amend the DS Act to provide for a Register of disability accommodation that meet the necessary standards for safety and quality care, and to ensure that government funding is only allocated to services which meet those standards. However, as noted above, the scope of accommodation which might be subject to these requirements is unclear. We note that disability service providers are already subject to requirements under funding agreements which include disability standards. The Commission would welcome the opportunity to discuss this proposal in more detail.

Official Visitor for People Experiencing Homelessness

The Commission also supports the proposal for a new Official Visitor for people experiencing homelessness. In our view there is a lack of comprehensive oversight and accountability mechanisms for emergency accommodation services and community services more broadly. We note that despite the reference to 'community services' in the title of the Disability and Community Services Commissioner, the Human Rights Commission Act 2005 does not give the Commission specific statutory functions in relation to 'community services.' The Commission may only take complaints in relation to accommodation services where these services fall within other aspects of the Commission's oversight jurisdiction in relation to unlawful discrimination, services for children and young people, services for people with a disability or services for older people.

In our view an Official Visitor would play a useful role in identifying concerns within services and advocating for individuals. However, the impact of the Official Visitor will be limited without a more formal oversight mechanism for community services (including homelessness services) which would allow for investigation and conciliation of complaints. We consider that the Government should legislate to provide a complaints handling jurisdiction to the Commission in relation to community services, including homelessness services.

We further note the recommendation in the Report of the ACT Economic Social and Cultural Rights Research Project, that the ACT *Human Rights Act 2004* be amended to include the right to housing,

recognising the fundamental importance of adequate housing to allow people to live lives of dignity, and the connection between the right to housing and other human rights.¹

Aboriginal and Torres Strait Islander Official Visitors

The Commission supports the proposal for a specific legislative requirement to appoint an Aboriginal and Torres Strait Islander Official Visitor for Children and Young People and for Corrections. Although Aboriginal and Torres Strait Islander Official Visitors may be appointed under existing legislation, this is not guaranteed, and there is currently no Aboriginal and Torres Strait Islander Official Visitor appointed for Children and Young people. In our view, the significant over-representation of Aboriginal and Torres Strait Islander people in Bimberi Youth Justice Centre and in the Alexander Maconochie Centre, and the particular vulnerabilities of these detainees, mean that it is critical that there is always an Official Visitor available in each system to meet the individual cultural needs of Aboriginal and Torres Strait Islander detainees. We note that the specification of an Official Visitor who is an Aboriginal or Torres Strait Islander would be permissible under s.27 of the *Discrimination Act 1991* as special measure intended to give members of a relevant class of people access to facilities, services or opportunities to meet their special needs.

Extension of the role of Mental Health Official Visitors

The Commission supports the extension of the role of Mental Health Official Visitors to provide oversight to people with a mental illness who are under community care or restriction orders. The extension of this role would provide greater protection and advocacy for people under mandatory orders who are required to access particular services, and are in a vulnerable position, although we note that the Public Advocate also has an oversight role in this area. The extension of the Official Visitor role would need to be supported with additional resources to ensure that it does not reduce the level of oversight and protection currently provided to people receiving treatment in mental health facilities. We would welcome further discussion with you regarding the scope of places that would be visitable by Mental Health Official Visitors under the Bill.

We look forward to discussing these issues with you on 1 February. The contact officers for this submission are Gabrielle McKinnon and Matt Hingston, ph 6205 2222.

Yours sincerely



Alasdair Roy
Children and Young People
Commissioner



Mary Durkin
Health Services
Commissioner



Dr Helen Watchirs
Human Rights and
Discrimination Commissioner

Disability and Community
Services Commissioner

31 January 2012

¹ Australian Research Council Linkage Project Report, September 2010, Recommendation 2

Roy, Alasdair

From: Taylor, Kate
Sent: Tuesday, 17 January 2012 10:29 AM
To: Roy, Alasdair
Subject: RE: Meeting with Amanda Bresnan

Sounds good.

See you then.

We will come to you.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

Follow Amanda Bresnan on [Facebook](#) or [Twitter](#)

From: Roy, Alasdair
Sent: Monday, 16 January 2012 5:42 PM
To: Taylor, Kate
Subject: RE: Meeting with Amanda Bresnan

Hi Kate

I have spoken with Helen & Mary - how does 11.00am on Wednesday February 1st suit?

Thanks - alasdair

alasdair roy
children & young people commissioner
6205 2222
alasdair.roy@act.gov.au | ACTkids@act.gov.au
www.ACTkids.act.gov.au

From: Taylor, Kate
Sent: Monday, 16 January 2012 11:40 AM
To: Roy, Alasdair
Subject: Meeting with Amanda Bresnan

Hi Alasdair,

Some alternate times we can meet are:

- Tues 31 Jan, anytime before 1
- Wed 1 Feb, anytime before 1
- Thurs 2 Feb, anytime after 1

Amanda and I are happy to come to your offices.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

Follow Amanda Bresnan on [Facebook](#) or [Twitter](#)

Durkin, Mary

From: Durkin, Mary
Sent: Tuesday, 17 May 2011 5:42 PM
To: Taylor, Kate
Subject: RE: Relocation of Specific Health Services to Village Creek and the ACT State Budget 2011-2012

Kate
Tried to call you but it must be a bit late. Perhaps you could give me a bell tomorrow.
Regards
Mary

From: Taylor, Kate
Sent: Friday, 13 May 2011 5:24 PM
To: Durkin, Mary
Subject: FW: Relocation of Specific Health Services to Village Creek and the ACT State Budget 2011-2012

Thanks for that email Mary

Below is the correspondence we have had with someone – I have highlighted the key points

We have said that we would take the issue on with the Minister via estimates so maybe we can see what type of response we get from her and if it's no good we can come back and talk to you again. We did also say to [REDACTED] earlier on that we would contact people like you, HCCA, and Advocacy for Inclusion and check in with how you all through the new Village Creek Unit was going.

I feel bad giving you more work!!!

From: Bresnan, Amanda
Sent: Friday, 13 May 2011 11:43 AM
To: [REDACTED]
Cc: Taylor, Kate
Subject: RE: Relocation of Specific Health Services to Village Creek and the ACT State Budget 2011-2012

Dear [REDACTED]

We have just started the Budget Estimates Committee process, which examines the budget, and through this process we can question Ministers about tax issues. I will ensure these matters are included in our questions. Kate Taylor from my office will be in contact with you about the responses we receive.

I am aware of the proposal regarding a Spinal Rehabilitation Unit, and will organise to meet with [REDACTED] to discuss where this had progressed.

Kind regards,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130

Email: BRESNAN@parliament.act.gov.au

From: [REDACTED]
Sent: Thursday, 12 May 2011 1:16 PM
To: Bresnan, Amanda
Cc: [REDACTED]
Subject: Relocation of Specific Health Services to Village Creek and the ACT State Budget 2011-2012

Dear Amanda,

I very much appreciate your reply on 28 April to my email of 31 March and I am encouraged by your comments concerning your desire to take up some recommendations I proposed as well indicating that if there were to be any feedback from community groups on issues surrounding ACTION buses and WAT vouchers then you will take matters up with the Government. It is heartening to see that this is your intention.

I would like to make a few additional comments, one in response to the ACT Budget handed down last week and another in relation to the 'ACT HEALTH PUBLIC CONSULTATION ON EXPANDING HOSPITAL SERVICES IN THE ACT'.

Firstly, and with reference to the ACT 2011-2012 Budget, I note in Paper No. 30 for Disability Services the TSS scheme within which I draw your attention to changes in rate subsidies for wheelchair clients accessing wheelchair friendly taxis. As with the current WATS subsidy rates, these TSS changes represent an increased rebate for the Taxi Subsidy Scheme (TSS) for wheelchair clients using an accessible taxi from \$26 to \$34.30. Given that this increase is due to 'to off-set rises in fares', I am concluding that an \$8.30 increase might possibly meet fare increases for some clients but this is not taking into account the sheer distance many clients are travelling.

If I refer to my email of 31 March to you, I quoted some anecdotal evidence of travel costs on some taxi runs from the North of between \$148 and \$194 for return trips. If one applies a \$34.30 rebate for each single fare run then the taxi user is still paying out from their pocket between \$77.40 and \$125.40. For many clients on a DSP per fortnight which appears to be possibly as much as \$640.90// \$320.45 a week, I would have thought that in anyone's book such a fare impost which takes up to 39% of a person's weekly income is unequivocally excessive when one calculates all the other weekly living costs to come out of the same weekly pool of \$320.45. Can you explain how it was believed the TSS increases were seen as being appropriate and adequate?

I note too that there is no information at hand on what rate increase there will be for WATS other than second-hand information suggesting that any WATS increases will be dependent on and derived from revenue collected from the increase in licence fees for wheelchair friendly taxis, as proposed in the draft report on the Taxi Review. I am extremely concerned that no persons, politicians or parties mandating these TSS (and later WATS) subsidy increases should convince themselves for a moment that such increases are fair, are equitable or in some way matching CPI increases during this calendar year. They do not! If the proposed WATS increased subsidies are anything like the TSS changes then we are looking at a backward slide in affordability for disabled clients meeting taxi fares in relation to all of their other basic weekly living costs. Furthermore in relation to the service centre opening at Village Creek in February this year, increases in WATS subsidies were supposed to have dovetailed into the starting date for the new service delivery. This has not happened and for the last 5 months clients travelling significantly further for assistance are still subject to woefully inadequate fare subsidies. What will the Greens in partnership with the Labor party in government do about this critical situation?

Secondly, I attach a Final Draft of a paper signed by a group of concerned disability services users namely [REDACTED] (Spokesperson), [REDACTED] and [REDACTED] asked if I would forward their submission to you for the purposes of informing and alerting you to a particular topic of concern in the Territory at the moment which is the lack of a permanent, fully resourced and operating Spinal Rehabilitation Unit in any hospital with the A.C.T. Should you at any stage wish to follow up on aspects of this submission in conference with the authors then [REDACTED] will be only too happy to meet with you and provide further detailed background to the issues raised in the joint submission.

I look forward to hearing from you soon and again thank you most sincerely for your reply.

Kind Regards

[REDACTED]

[REDACTED]

ACT

From: Bresnan, Amanda [mailto:Amanda.Bresnan@parliament.act.gov.au]

Sent: Thursday, 28 April 2011 12:47 PM

To: [REDACTED]

Cc: HUNTER; Taylor, Kate

Subject: Re: Relocation of Specific Health Services to Village Creek

Dear [REDACTED]

Thank you for your email about the Village Creek service centre. I appreciate this has been a topical and concerning issue for many people with disabilities.

Last year I had a number of groups and individuals approach me on the centre. The moving of services to the old school site at Kambah was something the ACT Government had committed to quite some time ago. As the Greens weren't in a position to stop the move going ahead, we strongly put forward the concerns being expressed and raised with us to address the problems at the site. We did this in consultation with the Health Services Commissioner and groups such as Advocacy for Inclusion, the Health Care Consumers Association, and disability representatives and advocates. This was the same approach being taken by these groups and representatives. I believe we all thought we had a reasonable level of success. Transport and the Independent Living Centre were the major concerns raised with my office at the time.

I have recently had concerns raised with me regarding amputee services at Village Creek, transportation from the Canberra Hospital to Village Creek, and gaps in service due to the relocation of services, and met with advocates about this. I have attached the letters I wrote and the responses from the Minister, for your information. I am waiting on feedback from the advocates regarding any further action.

Last year we had been told issues such as ACTION buses and WAT vouchers were to be improved, and this was the feedback we had also received from community groups. If that isn't the case, then it isn't acceptable and we will most definitely take it up with the Government. I also appreciate your comments about the 12 month review and the need for it to be independent. We will pursue both your recommendations, and my office will approach the groups we have worked with previously to see how they think the Centre is working and if they can help achieve those two recommendations.

Thank you once again for writing to me, and I can assure you this is an issue we have been pursuing and talking regularly to stakeholders about.

Kind regards,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections.

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

From: [REDACTED]
Sent: Thursday, 31 March 2011 1:18 PM
To: BRESNAN
Cc: HUNTER; [REDACTED]
Subject: Relocation of Specific Health Services to Village Creek

Ms Amanda Bresnan
MLA Brindabella
ACT Legislative Assembly

Dear Ms Bresnan,

As a concerned citizen I write to you about the operations of the Village Creek service centre which your party, The ACT Greens, supported the development and construction of.

You will recall that on 9 February 2011 the ACT Health Minister, Katy Gallagher MLA officially opened the ACT Health Village Creek Centre in Kambah. I now ask that you seriously consider your party's next approach to monitoring the on-going effectiveness of this centre.

There remain some high risk issues with the opening of the centre which have never been adequately addressed by the Government but which can be closely monitored, raised and profiled by your party over the next 12 months. Very serious problems of access to this new site remain for clients travelling greater distances across the region such that many will experience hardship on the basic issue of access and equity, the ACT and Federal Disability Acts and prohibitive costs facing clients accessing the Wheelchair Accessible Taxi Service (WATS). As far as I and other concerned, informed citizens are concerned, the critical issue of access and associated costs remain for those disability clients who will need to access the Village Creek centre. There is no guarantee that clients dependent on ACTION bus services will always be able to match up an access friendly bus with the time they must travel to and from an appointment at Village Creek. Of course there have been assurances but little tangible substance in any statements from the Government that would allay concerns. A wider issue not yet adequately acknowledged by the Government (even after business commenced at Village Creek on 9 February this year) is the consequence of the new service centre relocation where many clients will travel a far greater distance at far greater financial cost to themselves. This is particularly acute in relation to clients depending on taxi services for whom no assurance has been provided by the Government such that as of 31 March I am not yet aware that there will be an increase in the fare subsidy provided to them through the Wheelchair Accessible Taxi Service (WATS).

I have recently learned of emerging issues concerning access to Village Creek centre at great cost to the client. For instance a disabled person using a access friendly taxi travelled to Village Creek from north Gungahlin on a one-way far of \$97-, paid \$194 for the return trip and received through the WATS scheme some \$52 dollars in compensation. A young man with a broken limb was required to get himself to Canberra Hospital first in order to collect a script clearance to take to Kambah to collect the new support item thus incurring a far greater time, distance and personal hardship before finally receiving appropriate help due to an unnecessarily cumbersome administrative arrangement.

There are early alarm bells ringing concerning disabled client access to services at Village Creek, in particular distance and cost.

In this regard there has always been the matter of location of these specialist services at Village Creek and the attached article from the Canberra Times of 27 February 2011 which makes the timely but critical point that for the last 3 years the ACT's population has continued to move north. This clear cut trend is supported by two population surveys while at the same time the ACT Government in its wisdom decided that Village Creek to the far south of the ACT urban corridor was the best place to relocate services for disabled clients. The truth of the matter is the one-stop service model at Village Creek Kambah may well be a sensible concept in itself but thereafter this location puts at risk the principle of equal access by all clients to these services. Early evidence already demonstrates the folly of the Government's location decision only 19 days after the opening of the new centre.

I attach a copy of a letter I have received which is dated 13 January 2010 in reply from Mr Cormack, Chief Executive, ACT Health to Ms Cusack, Office of Disability & Community Services Commissioner. In that letter I specifically draw your attention to Page 1, Recommendation 4 which reads '*Evaluate the relocation of those services that will be moved to the Village Creek precinct one year after the relocation is complete*'. ACT Health agreed to this recommendation which is applicable by February 2012 and which is a clear and straightforward commitment that must not only take place but be undertaken in the most independent manner. In requiring ACT Health to agree and implement this recommendation, the ACT Human Rights Commission will of course expect a most impartial, detailed and adequately resourced evaluation of the Village Creek services by ACT Health. This will mean of course that ACT Health must not be allowed to appoint itself to conduct the evaluation but rather to contract an independent non-government agency to evaluate the effectiveness and accessibility of the Village Creek service. Furthermore if, during the course of the next 12 months or at the time of the evaluation and its final report your party was not satisfied about matters of service access for clients (in relation to ACT Health's obligations – and those of other contributing agencies) then you yourselves can lodge a complaint with the Human Rights Commission.

In light of the points made above, I strongly advocate two important actions for your party to consider taking up, as follows:-

- Maintain a close watching brief on the operational and service effectiveness of Village Creek during this calendar year through periodic requests to the minority Government for a report on the Village Creek operations, with particular reference to client access and associated cost issues; and
- By October 2011 ask the Government what arrangement it has in place to ensure that by early February it will have an independent non-government agency ready to conduct a comprehensive evaluation which has sufficiently far reaching Terms of Reference as to be able to evaluate the service inputs of all contributing agencies, not just ACT Health itself.

It is in a spirit of concern for the access rights of disabled people that I have written to you and I ask that you and your party not lose sight of this important human rights principle when you come to consider the ongoing monitoring and advocacy actions for disabled citizens you are in a most influential position to be able to support. I look forward to hearing from you.

Kind Regards



ACT

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Durkin, Mary

From: Durkin, Mary
Sent: Friday, 13 May 2011 5:10 PM
To: Taylor, Kate
Cc: Hindle, Kim
Subject: FW: Taxis to ACRS at Kambah vs TCH

Hi Kate

I would be keen to know what the Action issues are. I am wondering if you simply want to pass the complaint on to me. Although of course I appreciate that it is entirely up to you as to how you wish to handle it!

I had asked one of my people to look at what work we had previously done around taxis. The numbers below are very very rubbery of course but we basically came to the inevitable conclusion that some people will be happy with the move and others won't depending on where they live. But if there are particular issues that I need to be aware of, I would welcome them being raised with me.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Hindle, Kim
Sent: Friday, 13 May 2011 5:01 PM
To: Durkin, Mary
Subject: Taxis to ACRS at Kambah vs TCH

Hi Mary,

Elizabeth Cusack's calculations of taxi costs to Kambah and TCH are here:

G:\Human Rights Commission\COMPLETT\06-09\004\004 calc re distance TSS.xls

Elizabeth looked at distances and costs:

- from 3 far-North Canberra suburbs (Holt, Charnwood and Forde) and a far-South suburb (Banks).
- for wheelchair accessible and non-accessible taxis
- for clients who receive 50% subsidies and 75% subsidies.

Unsurprisingly, the Northsiders now pay more and travel further and the Southsiders less. A very rough estimate of how much more or less, using lots of averages and other assumptions would be that:

Northsiders pay 19% or \$5.85 more, and travel 3.3km more.
Southsiders pay 27% or \$6.15 less, and travel 6km less.

Kim

Durkin, Mary

From: Durkin, Mary
Sent: Friday, 13 May 2011 12:58 PM
To: Taylor, Kate
Subject: RE: Aged Care and Rehabilitation Service Community Precinct at Kambah

Kate
We had an original flurry of concerns raised with us and to my understanding the ACTION issues had been resolved. We later had another complaint and sought an update from ACT Health. But that was quite some time ago – probably early last year. But I will get my people to drag out the files and see what undertakings were made and get back to you.

Regards
Mary

From: Taylor, Kate
Sent: Friday, 13 May 2011 11:39 AM
To: Durkin, Mary
Subject: Aged Care and Rehabilitation Service Community Precinct at Kambah

Hi Mary,

Do you know how things are tracking with the New Aged Care and Rehabilitation Service Community Precinct at Kambah and whether all the transport issues were resolved? We have been lobbied about the high costs people using WATs still have to pay to get there and that it's still hard to catch ACTION buses there.

Cheers

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Costello, Sean

From: Taylor, Kate
Sent: Wednesday, 16 November 2011 9:34 AM
To: Taylor, Kate
Subject: FW: ACT Greens Media: Government must keep promise on forensic mental health unit

MEDIA RELEASE

Amanda Bresnan MLA, Health and Corrections Spokesperson, ACT Greens

16 November 2011

Government must keep promise on forensic mental health unit

ACT Greens Health and Corrections spokesperson, Amanda Bresnan MLA, will today move to hold the ACT Government to its promise to build a 15 bed forensic adult mental health unit at the old Quamby site.

"I am concerned that the Government is dropping its promise to build a forensic adult mental health unit in the ACT," Ms Bresnan said today.

"The Government has recently changed its language about who would be sent to a forensic mental health unit for treatment, and therefore the level of demand for such a unit.

"The Government had previously said¹ that people who were 'unfit to plead' and detainees at the AMC who experienced a severe mental illness would be treated at a forensic mental health unit.

"Now the Government is saying that only those people who are unfit to plead would be treated at the unit, and as a result, the unit would be unviable because of small numbers.

"The ACT Greens and a number of community organisations are very concerned about detainees experiencing a severe mental illness who are held in the AMC's Crisis Support Unit for extended periods of time.

"The Crisis Support Unit was designed for short term stays and has a low stimuli environment². I am concerned that detainees held in the Unit for extended periods will experience a deterioration in their mental health, which will impact on their ability to recover and rehabilitate.

"We only need to look to how other jurisdictions are acting on this issue. Tasmania has a population of 500 000 people and a 35 bed forensic mental health unit. Given that ACT has 340 000 people, it should have at least a 15 bed unit.

"I will be moving a motion³ calling on the Assembly to express its concern for detainees being held in the Crisis Support Unit for extended periods of time, and for the Government to recommit to developing a forensic mental health unit in the ACT," Ms Bresnan said.

MEDIA CONTACT: Tom Burmester – 0423 657 561 ACT Legislative Assembly GPO Box 1020, Canberra ACT 2601

NOTES

- ¹ See page 9 of the Mental Health ACT, Secure Adult Mental Health Inpatient Unit, Preliminary Model of Care, November 2009.
- ² See pages 146 to 162 of the Knowledge Consulting Report, Independent Review of Operations at the Alexander Maconochie Centre, March 2011.
- ³ The motion to be moved by Ms Bresnan in the chamber is:

That this Assembly:

(1) notes:

- (a) that people experiencing a severe mental illness involved in the Justice system can be treated in the Crisis Support Unit at the Alexander Maconochie Centre (AMC), the Psychiatric Services Unit (PSU) at The Canberra Hospital, or transferred to a forensic mental health inpatient unit in New South Wales;
 - (b) the Crisis Support Unit was designed for short term stays, however the Knowledge Consulting Report found:
 - (i) that this practice has not been adhered to;
 - (ii) one detainee was treated there for 9 months; and
 - (iii) detainees had not had regular access to green outside areas or outside programs in their time in the Crisis Support Unit;
 - (c) the number of detainees given treatment at the PSU is small, and the PSU has:
 - (i) returned patients to the AMC because the PSU was full;
 - (ii) handcuffed detainees to a bed while they were held at the PSU;
 - (d) transferring a detainee to a New South Wales forensic mental health inpatient unit diminishes their opportunity to retain contact with family and friends, an essential component of rehabilitation;
 - (e) the Bimberi Youth Justice Centre does not have a Crisis Support Unit;
 - (f) the ACT Government had previously committed to developing a forensic mental health inpatient unit with 15 beds to treat people who were either:
 - (i) unfit to plead due to mental illness; or
 - (ii) being held on remand or a sentence at the AMC or Bimberi and experienced a significant deterioration in mental health;
 - (g) the ACT Government is now stating that detainees from the AMC or Bimberi would not be sent to a forensic mental health inpatient unit for treatment, and because of this, the remaining demand for such a unit is insufficient for it to be viable if built for the ACT;
 - (h) that Tasmania with a population of 500 000 has a purpose built forensic adult mental health inpatient unit, the Wilfred Lopes Centre, with 35 beds, which treats both types of patients outlined in (1) (f) (i) and (ii), and if the ACT followed the Tasmanian ratio of forensic mental health bed numbers, the ACT should have 25 beds;
- (2) expresses its concern for those detainees who have a severe mental illness and are held in the Crisis Support Unit for an extended period;
- (3) calls on the ACT Government to:
- (a) recommit to a model of care that would see detainees from the AMC and Bimberi able to access a forensic mental health inpatient unit; and
 - (b) report to the ACT Legislative Assembly on 6 December 2011:
 - (i) about work being done to measure demand for the forensic mental health unit and whether capacity should be increased to 25 beds;
 - (ii) providing an outline of the costs for the proposed unit and what those costs involve;
 - (a) on what interim options can be provided to detainees who stay for medium to long periods in the Crisis Support Unit, until such time as a forensic mental health unit is developed locally (options could include, for example, temporary use of the Quamby buildings and mid week stays at the Periodic Detention Centre); and
 - (iii) a timeline for the Government's future work on this area and reports to the Assembly.

Costello, Sean

From: Costello, Sean
Sent: Tuesday, 4 October 2011 12:38 PM
To: Taylor, Kate
Subject: RE: Letter from ACT HRC

Hi Kate

Thanks for that. Unfortunately, I can't give you that information.

Cheers

Sean

-----Original Message-----

From: Taylor, Kate
Sent: Tuesday, 4 October 2011 12:30 PM
To: Costello, Sean
Subject: RE: Letter from ACT HRC

Hi Sean,

It's ok to include the email in the FOI. We don't mind.

Can I ask, who is applying for the FOI?

Cheers,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691 This correspondence may contain information which is confidential. If you are not the intended recipient of this communication please delete and destroy all copies and notify us immediately. If you are the intended recipient you should not copy, disclose or distribute this communication without the prior authority of the author.

-----Original Message-----

From: Costello, Sean
Sent: Friday, 30 September 2011 4:39 PM
To: Taylor, Kate
Subject: Letter from ACT HRC

Dear Kate

Please find attached a letter from the ACT Human Rights Commission, also sent via hard copy today.

Regards

Sean Costello
Human Rights & Discrimination Legal Policy Adviser ACT Human Rights Commission
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

The ACT Human Rights Commission releases regular updates on our work, including our quarterly newsletter, Humanity. To keep up to date with news in all our areas, you can subscribe by emailing human.rights@act.gov.au. The latest version is at <http://www.hrc.act.gov.au/>



**HUMAN RIGHTS &
DISCRIMINATION COMMISSIONER**
ACT Human Rights Commission

Ms Kate Taylor
Senior Advisor
Office of Amanda Bresnan MLA
ACT Greens

Via Email

Dear Ms Taylor

The Commission has received a freedom of information request seeking access to documents in relation to activities at the Alexander Maconochie Centre in December 2010.

During the search and assessment of documents relating to the above request, the attached documents were located and appear to have originated from your office.

I would be grateful if you would examine and comment on the release/non-release of these documents.

Should you have any objections to the release of the document and recommend that the document be partially or totally exempt, please advise the sections of the Act that you consider apply and the reasons for the exemption.

Please be aware that under the ACT Government's Online FOI Publication Policy, information released under this Freedom of Information Application may be released on the internet. Please note that personal information or business affairs information will not be made available under this policy.

A copy of the policy, with details about what information may be published on the internet, is available on request and will shortly be available online.

To ensure that this office meets its statutory obligations, please provide your response by 7 October 2011.

Your assistance is greatly appreciated in this matter.

If you have any queries relating to this matter, please do not hesitate to contact this office.

Yours sincerely

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
29 September 2011

006

McKinnon, Gabrielle

From: Watchirs, Helen
Sent: Tuesday, 21 June 2011 2:33 PM
To: Roy, Alasdair; Durkin, Mary
Cc: Costello, Sean; McKinnon, Gabrielle; Kilpatrick, Amy
Subject: FW: Thursday morning - Liberal motion - former AMC Super
Attachments: 20110621141522134.pdf

All I intend to say is that the AFP are investigating case, therefore I am unable to comment further

Regards,
Helen.

Dr Helen Watchirs OAM

ACT Human Rights and Discrimination Commissioner Level 4, 12 Moore Street Canberra City
ACT 2601 Tel (02) 6205 2222 Fax (02) 6207 1034 The ACT Human Rights Commission releases a
quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

-----Original Message-----

From: Taylor, Kate
Sent: Tuesday, 21 June 2011 2:18 PM
To: Watchirs, Helen
Subject: Thursday morning - Liberal motion - former AMC Super

Dear Helen,

I am writing because Mr Hanson is bring on a motion in the ACT Legislative Assembly on Thursday morning about the sacking of the former AMC super, and calling for the Assembly's JACS committee to look into it.

We Greens would be unlikely to support the call, but were hoping whether you had an advice, confidential or non-confidential that you could provide on the matter given the role you had to play in examining the videos of the incidents.

I will try and give you a call tomorrow if that's ok.

Kind regards,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Costello, Sean

From: Taylor, Kate
Sent: Tuesday, 10 January 2012 9:19 AM
To: Taylor, Kate
Subject: ACT Greens Media: Greens begin consultation on protecting people in care Bill

MEDIA RELEASE

Amanda Bresnan MLA, Health, Disability, Housing and Corrections Spokesperson, ACT Greens

10 January 2012

Greens begin consultation on protecting people in care Bill

ACT Greens Health, Disability, Housing and Corrections spokesperson, Amanda Bresnan MLA, has today released an Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 for consultation.

The draft legislation seeks to provide vulnerable people in care with a stronger complaints process that is independent of Government.

"Vulnerable people living somewhere where they are being cared for or held, have a limited ability to speak up for themselves to make sure they are treated fairly," Ms Bresnan said today.

"That is why the community has 'Official Visitors' to inspect places where vulnerable people are being held or live, and advocate on their behalf if they have complaints or problems. Such facilities traditionally include mental health wards, correctional facilities, and orphanages.

"The Greens Bill proposes a number of improvements to the way Official Visitors operate, many of which have been promised by Governments over the last decade but never implemented.

"The changes seek to provide Official Visitors with greater empowerment to more strongly represent vulnerable people living in or being held in care. This will be achieved by having Official Visitors sit within the Office of the Public Advocate, and removing the direct funding relationship Official Visitors currently have with the Directorates.

"The changes also seek to broaden the scope of Official Visitors to enable them to visit places where people aren't necessarily being held against their will, but have little choice to be elsewhere. Examples being people with disabilities in group homes, or people staying in accommodation run by a non-government provider.

"While we no longer have institutions, there are many vulnerable people being held or living in situations over which they have little choice or control. The Greens want to strengthen the ACT's Official Visitors to give vulnerable people a voice," Ms Bresnan said.

The Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 is available for public comment until 24 February 2012. The Bill and an accompanying discussion paper can be accessed at http://www.legislation.act.gov.au/ed/db_43749/default.asp.

NOTES

The Public Advocate (Official Visitors) Amendment Bill 2012 proposes to, in summary:

- ensure the independence of Official Visitors by having them resourced by and located within the Office of the Public Advocate, rather than the current scenario where Official Visitors are resourced by the Directorates they investigate;
- ensure all Official Visitors must address complaints in a manner that is considered to be best practice, by standardising for all Official Visitors the current requirements of the Official Visitor for Children and Young People as set out in the *Children and Young People Act 2008*;
- create two new categories of Official Visitors:
 - an Official Visitor for People with Disabilities, focusing on people who live or stay in group homes or respite accommodation, provided by government or non-government organisations; and
 - an Official Visitor for People experiencing Homelessness, focusing on people who stay in emergency accommodation;
- ensuring there is an Official Visitor for Children and Young People specifically for children and young people of Aboriginal and Torres Strait Islander descent;
- ensuring there is an Official Visitor for Corrections specifically for detainees of Aboriginal and Torres Strait Islander descent; and
- expanding the role of the Official Visitor for Mental Health by tasking them with the oversight of:
 - people who are experiencing a mental illness and are under a community care or restriction order, in addition to people receiving psychiatric treatment at an inpatient facility; and
 - facilities run by non-government organisations, including step-up step-down facilities or places of long term supported accommodation; and
- increasing the level of certification and safety of disability accommodation places, by requiring that the Community Services Directorate to maintain a register of approved disability accommodation places, and requiring that ACT Government funding not be used to pay for clients to stay at places that are not on the approved register.

Costello, Sean

From: Costello, Sean
Sent: Friday, 3 February 2012 10:27 AM
To: Taylor, Kate
Subject: RE: Jeremy Boland

Sorry Kate, doesn't appear we do.

From: Taylor, Kate
Sent: Thursday, 2 February 2012 11:23 AM
To: Costello, Sean
Subject: Jeremy Boland

Hi Sean

Do you have a contact for Jeremy Boland that isn't his ACT Govt work email?

Cheers,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691
Follow Amanda Bresnan on [Facebook](#) or [Twitter](#)

Costello, Sean

From: Taylor, Kate
Sent: Thursday, 16 February 2012 11:48 AM
To: Costello, Sean
Subject: secure mental health unit
Attachments: Letter from Gallagher. Secure mental health unit. 160212.pdf; Letter to Gallagher - Forensic Mental Health unit - 181111.pdf

Hi Sean

Thought you might be interested in this correspondence we have had with Minister for Health about secure mental health unit

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

Follow Amanda Bresnan on [Facebook](#) or [Twitter](#)





Amanda Bresnan MLA

ACT Greens

Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs,
Industrial Relations, Corrections.

MEMBER FOR BRINDABELLA

Ms Katy Gallagher MLA
Minister for Health
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

Cc. Mr Simon Corbell, Attorney General

Dear Ms Gallagher,

I am writing to you to follow up conversations our offices had with regard to a motion I placed on the Notice Paper about the proposed secure adult mental health unit.

Given we did not have the chance to debate the motion, but our offices were able to discuss a number of concerns the Greens held, I would appreciate if we could please confirm the outcomes of those discussions.

Those outcomes included that:

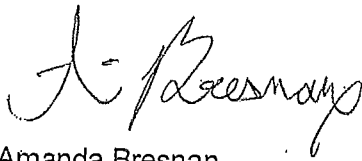
- AMC detainees will be able to be treated at the unit if such treatment is necessary for their mental health;
- the ACT Government is currently having an independent body revise the costings for the proposed unit;
- the Government is also revising its projected level of demand for the unit;
- work will be done to examine what interim options can be provided to detainees who stay for medium to long periods of time in the Crisis Support Unit at the AMC, until such time as a secure adult mental health unit is developed locally; and
- the Government can provide a report to the Assembly on those items listed above by March next year.

I am disappointed that despite discussions on Wednesday, the Government was unable to agree that it was concerned for those detainees who experience an acute mental illness and are held in the Crisis Support Unit for an extended period. The Crisis Support Unit was designed as a low-stimuli environment only for detainees who required short stays because of an acute crisis. It has no outside areas, and the existing exercise area has high brick walls and a small mesh open roof. The Knowledge Consulting report recommended that an urgent review be conducted of the Unit, however no further information about this matter has been provided by the Government to date.

Discussions also covered the Brian Hennessy Rehabilitation Centre, in that the Government said it can be used for those AMC detainees who are low security and require treatment for a mental illness. The Greens are of the understanding that it is difficult to secure a place at the Centre because of its high demand from the community, and AMC detainees do not actually receive treatment there. I would appreciate if evidence or data could be please provided to demonstrate that the Centre has treated AMC detainees in recent times.

I thank your office for its engagement in this topic. I appreciate it is one of the more difficult areas which the Government has responsibility for. I look forward to your confirmation of the matters discussed last Wednesday and any further information that can be provided.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Bresnan', written in a cursive style.

Amanda Bresnan

18 November 2011



Katy Gallagher MLA

CHIEF MINISTER

MINISTER FOR HEALTH

MINISTER FOR TERRITORY AND MUNICIPAL SERVICES

MEMBER FOR MOLONGLO

Ms Amanda Bresnan MLA
ACT Greens
ACT Legislative Assembly
GPO Box 1010
CANBERRA ACT 2601

Dear Ms Bresnan *Amends*

Thank you for your letter of 18 November 2011 concerning the planned secure mental health inpatient unit.

The unit is planned to provide care, treatment and rehabilitation for forensic and non forensic ACT residents who are experiencing serious mental illness or severe mental health dysfunction and who require short to medium term high secure care. In general, consumers will stay in the facility for up to six months.

As indicated during Estimates Committee hearings earlier this year, after receiving advice of a significant escalation of the cost estimate for a standalone secure mental health facility, the Government withdrew the budget provision to build the secure unit. This was not a statement to the effect that the Secure Unit was not going to be built. In order to inform Government in this matter, I requested that the Health Directorate review all the information on the demand for secure mental health services now that the AMC was operational.

I also requested the Health Directorate undertake an assessment of the cost estimate that had shown a significant escalation from the original allocated \$11 million. An independent review of the capital costings has been commissioned.

I will provide a report to the Assembly on the secure mental health inpatient unit project after I have received advice on the review of demand projections and the capital costings for the proposed unit. I anticipate being able to do so by March 2012.

ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601
Phone (02) 6205 0840 Fax (02) 6205 3030 Email: gallagher@act.gov.au

The Health Directorate continues to seek interim options for detainees at the AMC who require hospitalisation in a secure mental health inpatient unit.

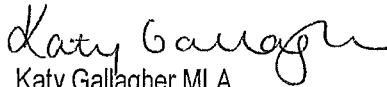
You have enquired specifically about the use of the Brian Hennessy Rehabilitation Centre (BHRC) by AMC detainees.

During a meeting with Health Directorate senior staff in September 2011, there was discussion about the role of BHRC in order to demonstrate the difficulty of making comparisons with other jurisdictions' secure bed numbers, in this case Tasmania, without taking into account the range of services provided in the respective jurisdictions at different levels of clinical acuity and levels of security in the facilities being compared. The Wilfred Lopes Centre in Tasmania is a 35 bed facility that consists of various bed types including high dependency and extended care, long term subacute and rehabilitation beds not planned to be provided in the new ACT secure facility.

BHRC is a low-moderate secure facility providing rehabilitation services. Detainees requiring the support of the AMC Crisis Support Unit or admission to hospital for treatment of an acute mental illness would not be suitable referrals to BHRC.

Thank you for your interest in the provision of secure mental health care in the ACT.

Yours sincerely



Katy Gallagher MLA
Minister for Health

15 February 2012

Costello, Sean

From: Bresnan, Amanda
Sent: Thursday, 16 September 2010 12:23 PM
To: Watchirs, Helen; Durkin, Mary; Roy, Alasdair
Cc: Taylor, Kate; McKinnon, Gabrielle; Costello, Sean; Barnard, Belinda; McGill, Brianna
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Helen,

Thank you for the response.

The legislation is no longer, and hasn't been listed, for debate next week. We have heard informally that it may not be debated until the December sitting week. So there may not be the urgency needed currently.

We will let you know if we hear anything further.

Kind regards

Amanda

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

From: Watchirs, Helen
Sent: Thursday, 16 September 2010 11:52 AM
To: Bresnan, Amanda; Durkin, Mary; Roy, Alasdair
Cc: Taylor, Kate; McKinnon, Gabrielle; Costello, Sean; Barnard, Belinda; McGill, Brianna
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Amanda,

We are currently developing a whole of Commission letter in reply to this issue – I apologise for the delay, but we are urgently finalising our Annual Report. I hope the letter will be ready early next week.

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

From: Bresnan, Amanda
Sent: Wednesday, 1 September 2010 5:06 PM
To: Watchirs, Helen; Durkin, Mary
Cc: Taylor, Kate
Subject: Working with Vulnerable People (Background Checking) Bill 2010

Dear Ms Watchirs and Ms Durkin,

I am writing with regard to the Working with Vulnerable People (Background Checking) Bill 2010. I understand concerns have been raised by Directions ACT with Ms Watchirs about the Bill. I was hoping that once the Human Rights Commission has considered the Bill you might be able to provide me with a copy of your findings, as I understand the ACT Government intends to bring the Bill on for debate in the September sitting week.

For your information, and to assist you in your considerations, the ACT Greens have spoken with representatives of the drug and alcohol and mental health peak bodies, and Directions ACT separately. We note that the peak bodies concerns will largely need to be addressed through the Guidelines that are to be developed on how a 'check' is conducted. The Guidelines will be developed over the next 6 to 9 months in consultation with the community sector, and will be a notifiable instrument (not disallowable). Given this, the Greens have informally proposed to the Government that the Bill not be debated until the Guidelines have been finalised, so that they can also be considered when debating the Bill and ensure that human rights concerns have been fully addressed and can be scrutinised by the ACT Legislative Assembly.

I would also appreciate if Ms Durkin could consider this matter, as I am keen to know whether the right balance is being achieved for those sectors providing health related services through 'peer' measures. The delivery of health related services through peer based models can be very effective but also very difficult to defend, and there have been some disagreements and movements in the ACT in recent years around this area. While recognising the need to protect vulnerable people, the employment or volunteering of people with a lived experience can assist the provision of health services for the drug and alcohol and mental health areas, and I would appreciate your advice on whether the Bill presented ensures the improved health outcomes of clients, which are achieved with peer like health services, are not negatively impacted. I would also appreciate your advice as to whether in your opinion the Working with Vulnerable People Checks are more suitable for some areas of community service, like disability, than others such as drug and alcohol.

I greatly appreciate any assistance you are able to provide on this matter.

Yours sincerely,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

Costello, Sean

From: McKinnon, Gabrielle
Sent: Thursday, 16 September 2010 12:15 PM
To: Bresnan, Amanda
Cc: Taylor, Kate; Costello, Sean; Barnard, Belinda; McGill, Brianna; Watchirs, Helen; Durkin, Mary; Roy, Alasdair
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010
Attachments: working with vulnerable people discussion.doc; ACT_HRC_Children_-_16_October_2009.pdf

Dear Amanda

Further to Helen's email, for your information I am attaching the separate submissions made by the Human Rights & Discrimination Commissioner and the Commissioner for Children & Young People in response to the original Discussion Paper proposing a working with vulnerable people checking scheme. The scheme proposed in the Discussion Paper has been significantly modified in the Bill, but these submissions may provide useful background about some of the issues considered by the Commissioners.

Kind regards

Gabrielle McKinnon

Human Rights Legal Adviser
ACT Human Rights Commission
Ph 6205 2222
Fax 6207 1034

Please note that I work Wed - Friday. For urgent matters please contact Sean Costello on 6205 2222.

From: Watchirs, Helen
Sent: Thursday, 16 September 2010 11:52 AM
To: Bresnan, Amanda; Durkin, Mary; Roy, Alasdair
Cc: Taylor, Kate; McKinnon, Gabrielle; Costello, Sean; Barnard, Belinda; McGill, Brianna
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Amanda,

We are currently developing a whole of Commission letter in reply to this issue – I apologise for the delay, but we are urgently finalising our Annual Report. I hope the letter will be ready early next week.

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

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Sent: Wednesday, 1 September 2010 5:06 PM

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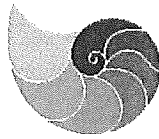
Yours sincerely,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au



HUMAN RIGHTS & DISCRIMINATION COMMISSION

ACT Human Rights Commission

Mr Mathew Munro
Working with Vulnerable People
Consumer Advocacy and Quality Service
Policy and Organisational Services
Department of Disability, Housing and Community Services
GPO Box 158
CANBERRA ACT 2601

Dear Mr Munro

A Working with Vulnerable People Checking System for the ACT

Thank you for the opportunity to make comments on the Discussion Paper proposing a Working with Vulnerable People Checking System (WWVP System) for the ACT. I welcome this very important initiative to provide greater protection for the human rights of children and others who are most vulnerable in our community, and commend the attention given to the *Human Rights Act 2004* (HRA) throughout the Discussion Paper.

While fully supporting the aims and general structure of the proposed WWVP System I do have some concerns over aspects of the checking and registration process outlined in the Discussion Paper, from the perspective of the human rights of those subject to these checks. These concerns relate to the proportionality of limits placed on the right to equality (s.8 of the HRA) and the right to privacy (s.12 of the HRA) under the registration process. I set these out below, with suggestions for addressing these concerns, noting that these issues do not necessarily relate to the specific questions posed in the Discussion Paper. I understand that the Health and Disability Services Commissioner and Children and Young People's Commissioner are also making separate submissions on other aspects of the proposed WWVP System.

Use of Expanded Criminal History Information

The Discussion Paper notes that the establishment of the Screening Unit will enable the ACT to fully participate in a COAG initiative to share expanded criminal history information as part of a national scheme to improve the protection of children. This information will include records of acquittals and charges that do not have proceeded to conviction, and a range of factual information about individual cases. While the Discussion Paper states that "*Full participation can be achieved while remaining compliant with the provisions of the ACT Human Rights Act,*" this issue is contentious. I understand that the Victorian Government has concluded that the sharing of this information would not be compatible with its *Charter of Human Rights and Responsibilities 2006*. Strict safeguards will be required in relation to the use of this information if the system is to be compatible with the HRA. It would be advisable for provisions authorising the use of expanded criminal history to be separated from sections relating to convictions and pending charges, to allow for severability if the

Supreme Court were to issue a declaration of incompatibility in relation to the use of non-conviction information.

'One size fits all' registration

While I generally support the wide coverage of the WWVP System, I have concerns about a single risk assessment standard being imposed on all applicants for registration, regardless of the inherent requirements of their particular occupation, particularly where this is combined with an enhanced disclosure regime that will give the Screening Unit access to a larger range of information other than criminal convictions or pending charges.

Under s. 31 of the HRA, human rights can be interpreted by reference to international jurisprudence. The right to recognition and equality before the law protected under the HRA is derived from Article 26 of the International Covenant on Civil and Political Rights, which has been interpreted by the UN Human Rights Committee to include non-discrimination on the basis of criminal record.¹ This right does not prohibit consideration of criminal records in relation to particular occupations, but does require that any distinctions made on this basis be 'reasonable and objective' with the aim of achieving a legitimate purpose.² The International Labour Organisation Convention 111 provides further guidance that permissible distinctions must be based on the 'inherent requirements' of an occupation. Similar tests are replicated in all Australian equal opportunity and anti-discrimination laws covering employment.

Under the proposed WWVP System, the range of occupations for which registration is required is extensive. At one end of the spectrum, it includes foster carers for children and workers in residential accommodation for intellectually disabled adults, who may work unsupervised and have total responsibility for the well-being of those in their care. These occupations demand a stringent standard of propriety to protect children and vulnerable adults. At the other end of the spectrum it may cover clerical or reception staff of social services such as community centres, or cleaners and gardeners employed by those services. While some checking is appropriate for these roles, they pose less inherent risks to vulnerable people.

Although it is not made entirely clear in the Discussion Paper, it appears that the proposed WWVP System would adopt a general standard for registration, as those who receive a registration card are then certified for a five year period to work in any occupation involving vulnerable people, not just for the occupation for which they initially sought registration. Such a 'one size fits all' assessment for registration that seeks to eliminate risk of sexual, physical, emotional or financial harm or neglect being inflicted on vulnerable people, across such a wide range of services and roles, will necessarily need to take a cautious approach and impose a very high standard for registration. Indeed, it is hard to see how the Screening Unit could register an applicant with any criminal or behavioural history, other than the most minor or trivial matters, if registration is to be a real safeguard for roles involving high levels of trust and vulnerability. This may have a disproportionate and discriminatory impact on those who do have a criminal record, or other matters disclosed in the checking process, where this record is not directly relevant to the inherent requirements of their occupation.

¹ *Thlimmenos v Greece*, 6 April 2000, Application No 34369/97.

² General Comment 18

For example, a person who has a criminal record relating to unlawful drug possession is likely to be excluded from registration as they may pose an unacceptable risk in an unsupervised position caring for children, but may not pose a significant risk to vulnerable people in a role as a gardener, or as a worker in a needle and syringe exchange program.

We note that the *Evidence Based Guide to Risk Assessment, Schedule to the National Framework on Creating Safe Environments for Children*, which is cited extensively in the Discussion Paper, emphasises that “[i]ndividual and situational characteristics interact to increase or minimise the risk of inappropriate behaviour, and both need to be taken into account.”³ It suggests that specific factors such as the level and quality of direct supervision, the duties undertaken and the location of the work are relevant to this assessment. However, it does not appear that these factors, or the inherent requirements of the occupation are able to be considered under the general registration process.

Limitations of the Positions Based Assessments Alternative

The Discussion Paper does provide for position based assessments as an alternative to general registration “*in some specific cases*” where “*it may be considered beneficial for an employee or volunteer with a criminal history or a behavioural history to be registered to work with vulnerable people.*” However, the Discussion Paper provides that position based assessments will not be available to all applicants, and will be restricted to situations where the applicant has the express written support of a prospective employer to be engaged in a particular position, amongst other conditions.

In my view, the required involvement of the employer in this process places significant limitations on the applicant’s right to equality and the right to privacy. It undermines the role of the Screening Unit as an independent screening agency and safeguard in preventing the disclosure of confidential criminal record information to an employer. It seems that in order to gain the support of a prospective employer for an application for a position based assessment, an applicant will need to disclose the fact of a criminal or other record, and in all likelihood provide a justification for those matters to the employer. This may put a potential employee at considerable disadvantage in a competitive recruitment process.

It is not clear why position-based screening should not be available to any applicant who is unable to obtain general registration. It is also unclear why is there a need for the employer to be involved, beyond the normal process of verifying registration details, and perhaps confirming the nature of the role. In practice employers who are requested to support an application will probably question potential employees about the exact circumstances of their criminal history, and it may be difficult to prevent the further dissemination of this personal data to others. The rationale for the further conditions that require the applicant to demonstrate the benefits to the employer and to vulnerable people of the applicant obtaining registration is not stated. This restriction seems on its face to be discriminatory and disproportionate and could be found to be incompatible with human rights by the Supreme Court.

³ At 4.3

Those applicants who succeed in obtaining position based registration face other punitive restrictions, as the registration is not transferable to a position of the same type, and the applicant must consent to ongoing monitoring and compliance checks not imposed on those who obtain general registration.

Accordingly, in my view, the position based assessment scheme currently proposed does not provide a fair and workable alternative for people who do not meet the high standard required for general registration, but who wish to work in a position which involves less objective risk and inherently requires a lesser standard of probity.

Alternative of occupation or classification based restrictions

A better alternative to one-off position based assessments would be a more nuanced registration system which provides a registration card valid for particular types of occupation or risk classification. One option would be for all registrations to be restricted to specified occupational or risk based categories, so that re-assessment would be required when a person changes to another occupation working with vulnerable people, for example a clerical assistant who re-trains and is appointed as a youth worker. This would allow an appraisal of an applicant's record against the inherent requirements of the occupation, and allow transferability of registration within the same field of occupation. The advantage of restricting all registrations to specific categories of occupation is that it would apply across the board, and thus prevent unfair discrimination against a person who has a record that is not relevant to their occupation.

If this suggestion is genuinely not practicable, an alternative would be to provide a two tier system of registration, with an unrestricted registration card for those who satisfy the highest standard, and classification based restrictions for other applicants who do not meet this general standard but who meet a lower test appropriate for a particular category of occupation. A restriction on a registration card is likely to put an applicant at some disadvantage, but this may be a proportionate limitation on the rights to equality and privacy where subject to merit review mechanisms, such as the ACT Civil and Administrative Tribunal.

It may still be appropriate to retain a position-based assessment mechanism as a last resort for those applicants with a serious criminal history who would not satisfy the requirements for a restricted registration card, but who have the support of their employer, in accordance with the existing proposal. This assessment could have regard to specific situational risk factors such as the level and quality of direct supervision and duties undertaken by the applicant. However, I fully accept that there will be some applicants whose criminal or behavioural history must preclude them from any employment that involves contact with vulnerable people.

Need for transparent criteria set by law

I support the general principles for risk assessment under the proposed WWVP, although I consider that the important principle that risk assessment should be evidence based should not be qualified with the words '*where evidence exists.*' However, I have some concern that the detailed criteria and procedures for risk assessment will be contained in a procedural manual for the Screening Unit, rather than in legislation or even regulations, which are

subject to greater scrutiny. Section 28 of the HRA provides that human rights may only be subject to limitations 'set by Territory Laws', which accords with international human rights principles that limitations must be determined by law (for example as recognised in Article 29(2) of the Universal Declaration of Human Rights.) The United Kingdom Joint Committee on Human Rights criticised the lack of detailed criteria for risk assessment in the Safeguarding Vulnerable Groups Bill 2006, noting that:

where a potential interference with Convention rights is subject to the exercise of a discretion, the scope of that discretion and its manner of exercise must be defined with sufficient clarity to allow the individual concerned to know that he has not been treated arbitrarily or in a disproportionate way.⁴

Registration in advance of employment

The Discussion Paper provides that the registration process will only be available to applicants who have been offered a position working with vulnerable people, or who are already working with vulnerable people. It is stated that this is "to limit the incidence of frivolous applications." It is not clear, however, that there is a real risk of a large volume of unnecessary applications for registration.

In my view, it would be appropriate to allow applicants to apply for registration before seeking employment in a relevant field. This would allow applicants who have a criminal or behavioural history to go through the registration process and make representations to the Screening Unit without an employer being notified about an interim negative notice. This would be less restrictive of the applicant's right to privacy, and consistent with the applicant's right to a fair trial, as they would not be subject to a disadvantage (through employer notification and being required to cease duties) before having the opportunity to put their case to the Screening Unit.

Duration of registration

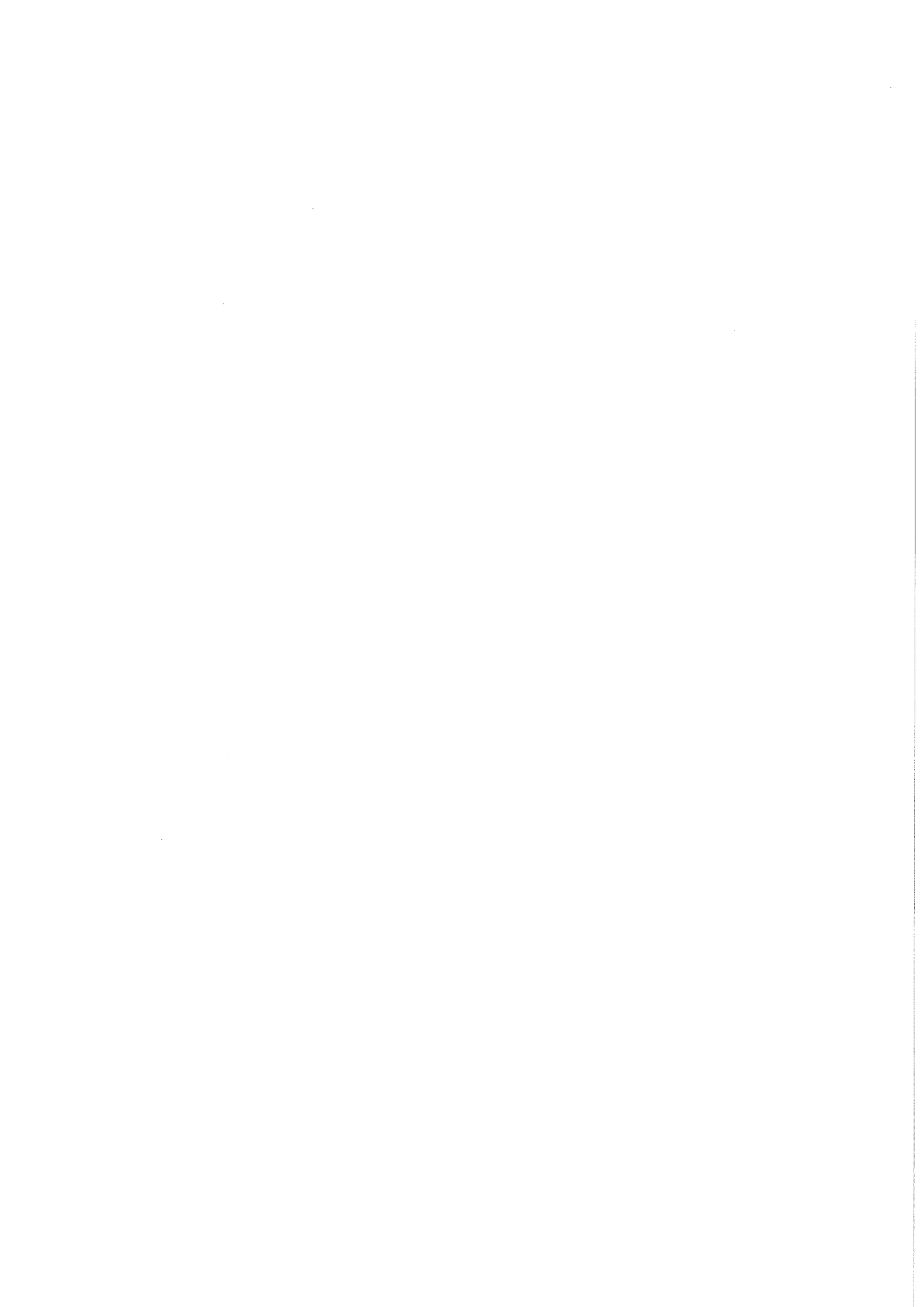
The proposed duration of registration of five years would lead to a real risk of an offence or other behaviour going undetected during the registration period, and thus reducing safeguards for vulnerable people under the WWVP System. In my view a three year registration period would strike a better balance between efficiency and convenience for applicants and ensuring the safety of vulnerable people.

The contact officer at the Commission for this matter is Ms Gabrielle McKinnon, available Wed-Friday on ph 62052222.

Yours sincerely

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
16 October 2009

⁴ Joint Committee On Human Rights - Twenty-Fifth Report Session 2005-06 at 1.22.





CHILDREN & YOUNG PEOPLE COMMISSIONER

ACT Human Rights Commission

Working with Vulnerable People
Consumer Advocacy & Quality Service
Policy & Organisational Services
Department of Disability, Housing & Community Services
GPO Box 158
CANBERRA ACT 2601

Discussion Paper: *Working with Vulnerable People Checking System for the ACT*

Thank you for the opportunity to respond to the *Working with Vulnerable People Checking System for the ACT* discussion paper.

The Children & Young People Commissioner

As you may be aware, the roles and functions of the Children & Young People Commissioner (CYPC) are established under sections 6, 14 and 19B of the *Human Rights Commission Act 2005*, and include:

- Investigate complaints about the provision of services for children and young people;
- Consult with and listen to children and young people, and encourage government and non-government agencies to do the same;
- Promote the rights of children and young people;
- Make recommendations to government and non-government organisations on legislation, policies, practices and services that affect children and young people;
- Encourage and assist providers of services for children and young people to contribute to review and improve service delivery;
- Promote community discussion about the CYPC and services for children and young people; and
- Conduct enquiries and reviews.

Put simply, the role of the CYPC is to help make Canberra a better place for the children and young people who live here.

Introductory comments

As you may be aware, I have been a long-standing supporter of a system which provides for the checking of people who provide services for children and young people and, accordingly, I welcome the introduction of a *Working with Vulnerable People Checking System* in the ACT.

The safety and well-being of children and young people must always be of paramount consideration in government and non-government service provision, and any initiative which assists to protect children and young people from harm is to be commended.

In providing the above support, I understand that one of the primary debates in the introduction of this system is the balance between the rights of a child or young person to be protected from harm, and the rights of a person undergoing a check to be protected from unfair or inaccurate claims or allegations and breaches of privacy.

As the ACT Children and Young People Commissioner, I am strongly of the view that the right of a child or young person to be protected from harm is a right which must always be vigorously

defended. It may well be that the price the community has to pay to protect its children and young people includes that of some adults having to compromise on some of their own rights.

The rate of abuse and neglect of children and young people remains on the rise across Australia, and if the community is serious about halting this increase, then some difficult choices may need to be made.

Response to questions posed in the Discussion Paper

I will now address the specific questions posed in the Discussion Paper. Only those questions to which I wish to make a response are included.

Q2) Are there any activities that should be included or excluded from Annex A? Do you have any comments specific to any of the listed categories?

Q3) Are there any activities that should be included or excluded from Annex B? Do you have any comments specific to any of the listed categories?

So as to be consistent with regulated activities for children and young people (Annex A), perhaps 'Religious Services & Representatives' could be added as a regulated activity for vulnerable adults (Annex B)?

Religious organisations provide a range of services for vulnerable adults, who are, presumably, just as susceptible to harm within these organisation as are children and young people.?

Q6) Do you have any comments on the checks that will be applied to supervision?

As proposed in the Discussion Paper, checking should apply to:

- All people in contact with vulnerable people whether or not they are supervised; and
- People who are responsible for undertaking supervision of people in contact with vulnerable people.

Q7) Do you have comments on the general exemption for age?

I would strongly encourage consideration of checks being extended to include all employees and volunteers over the age of 15 years.

I appreciate the community sensitivity to such a proposal, however, as already noted in the Discussion Paper, there is consistent clinical evidence that harmful behaviour, and/or grooming for harmful behaviour, can be present well before a person reached adulthood – in fact, sometimes well before a young person even reaches 15 years of age.

There does, however, appear to be a significantly lower incidence of young people engaging in harmful behaviour with adults, so perhaps checks on young people could be limited to only those who wish to work with other children and young people (and not vulnerable adults).

In saying this, current clinical evidence also suggests that most harmful behaviour displayed by young people occurs either within the family (or extended family) home, or within schools or other out-of-home care settings, so perhaps limiting checks to only those settings which are documented to pose the highest clinical risks may be appropriate.

Q9) Do you support the application of an exemption for people who are 'closely related' to each (and every) vulnerable person they have contact with?

Q10) Do you support the application of an exemption for volunteers engaged in a regulated activity who are 'closely related' to a vulnerable person who ordinarily participates in that regulated activity?

As with Q8 (above) dealing with age exemptions, this is another difficult issue.

Again, there is consistent clinical evidence that harmful behaviour towards children and young people is common within a family or extended family situation.

I appreciate that the checking of family members will still apply within formalised care arrangements, and that such checks will cover a high proportion of 'high risk areas', however I would encourage further consideration of this issue before family members are formally excluded from the system.

Q11) Do you have any comments on excluding normal employee/ employer relationships?

Again, a difficult issue, and I understand the arguments in favour of excluding employee/employer relationships from the system.

I would, however, encourage consideration of checks being extended to include some of the larger businesses which traditionally employ young people (eg: McDonalds; Coles etc).

Young people in employment remain particularly vulnerable to a range of abusive and exploitative behaviours, and the checking of some of the larger employers may assist to address this issue.

Perhaps limits could be set depending on number of young people employed? For example, only check those businesses which employ more than 25 young people?

Q13) Do you have any comments on the proposal that unregistered persons can be engaged in a position pending the outcome of their application?

I can understand why such a proposal has been made, however I don't think that a 'one-rule-fits-all' approach such as this works in this context.

There is a big difference between a person working with children or young people in, for example, a residential care setting, and a person working as a gardener in a high school setting. A residential care worker should not be allowed to begin work without a WWVP Card, while perhaps the gardener should be allowed to do so.

This would suggest that perhaps there should be 'categories' of regulated activities, with those activities that potentially pose the greatest risk with respect to unsupervised contact with children and young people being given a higher ranking, and those activities which pose a lower risk being given a lower ranking.

Individuals would not be allowed to begin work in the higher ranked activities without first undergoing a check, whereas lower ranked activities could employ someone pending the outcome of their check.

I appreciate that this may be difficult to legislate, however it may well be safer. Additionally, I understand that some of the other Australian jurisdictions which operate WWVP checking systems currently differentiate between different 'types' of employees (eg: direct unsupervised contact vs indirect supervised contact).

Another approach may be to simply make it a funding agreement requirement that organisations that provide high risk activities (residential care services; foster carers; child care services etc) cannot employ someone without a WWVP Card.

This will not capture all organisations (such as religious organisations which do not receive any government funding), however it may be better than simply allowing anyone to begin work anywhere.

Additionally, given that the Discussion Paper itself notes that it is anticipated that 87% of all applicants will be provided with a positive notice within 2 days, it does not seem overly burdensome to require employees to hold a valid WWVP Card prior to commencement

Q15) Do you have any comment on the inclusion of other types of information such as Apprehended Violence Orders, Child Protection Orders and past employment records in the checking process?

The inclusion of this type of information is critical to the success of the program and, therefore, I support its inclusion in the risk assessment process. Within reason, the more information about potential risk factors on the table, the more accurate and therefore the more useful the screening process will be.

In saying this, it is critical that the risk assessment instrument to be used in the WWVP checking process meets the highest professional and academic standards with respect to test reliability and validity.

Similarly, staff employed in the WWVP Screening Unit must have the necessary skills and expertise to apply the instrument appropriately, and to interpret results accurately and sensitively.

Q17) Are there any additional risk assessment principles that should be applied?

The risk assessment principles are fine, however details on the practice are rather flimsy.

As noted at Q15 (above), it is critical that the risk assessment instrument to be used in the WWVP screening process meets the highest professional and academic standards.

It is difficult to tell from the information contained in the Discussion Paper what particular risk assessment instrument, or instruments, are to be used, and this is of concern. The development of an assessment instrument to accurately measure potential risk is no easy feat, and will require significant research and resources, as well as consultation with relevant professionals.

This aspect of the system (and Discussion Paper)) requires further development and consultation.

Q18) Do you have comments on the proposed list of relevant criminal offences?

As noted at Q14 (above), the more information about potential risk factors on the table, the more accurate and therefore the more useful the screening process will be.

Accordingly, I would add to the list an applicant's driving record. In many circumstances such information may not be relevant (eg: a gardener at a high school), however in many circumstances it is highly relevant (eg: a person whose job it is to drive children and young people from one place to another).

This suggestion leads back to the notion of different categories of regulated activities (see Q13 above). As with the difficulties associated with a 'one-size-fits-all' rule with respect whether an employee can start work without a WWVP Card, it has to be questioned as to whether a 'one-size-fits-all' approach works when it comes to 'passing' or 'failing' a screening check.

That is, to receive a WWVP Card to work with children or young people in a residential care setting should surely be a more rigorous process than to receive a WWVP Card to work as a gardener in a high school.

And, just as a residential care worker should not be allowed to begin work without a WWVP Card, perhaps applicants for residential care positions should be required to achieve a higher 'score' in their screening check than applicants for positions as gardeners.

Additionally, I am concerned about the sentence at 11.2 of the Discussion Paper (p. 46) which reads: "...information about a person should only be considered by an *employer* where that information relates to the person's ability to undertake...the job".

In the context of the proposed WWVP checking system, presumably the *only* information that an employer will ever get is the final *outcome* of an employee's check, with, in most circumstances, that outcome being either:

- a positive notice (a WWVP Card);
- the withdrawal of an application; or
- a negative notice.

If an applicant is issued with a *positive notice*, that person will only have to provide their employer with a copy of their WWVP Card (and nothing else). In such circumstances the WWVP Screening Unit should not provide the employer with any information at all.

If an applicant is issued with an *interim negative notice*, it will be up to the applicant to decide if they wish to have that decision *reviewed*, or if they wish to *withdraw* their application. In such circumstances, the applicant need only tell their employer that the outcome of their check is not yet known. Similarly, the only information that the WWVP Screening Unit should provide to the employer is to verify that the outcome is not yet known. The Screening Unit should not inform the employer that there has been an interim negative notice, nor the grounds for that interim notice.

If a potential employee is issued with a (final) *negative notice*, it will be up to the applicant to decide if they wish to accept that decision, or withdraw their application. In such circumstances, the applicant need only tell their employer that they have not been provided with a WWVP Card, or that they have withdrawn their application. In such circumstances the WWVP Screening Unit should not provide the employer with any information at all (especially, any information about why the applicant was issued with a negative notice).

Q19) Do you have any comments on the list of questions to be considered as part of the risk assessment process?

As noted at Q17 (above), it is critical that the risk assessment instrument to be used in the WWVP screening process meets the highest professional and academic standards, and that the development of such an instrument will require significant research and resources, as well as consultation with relevant professionals.

The same can be said for any questions which form a part of the assessment instrument.

Q20) Do you support the additional considerations applicable to non-conviction information? Are there any other considerations that should be included?

As is well recorded, the conviction rate for a whole range of offences (including sexual offences) is notoriously low, so the inclusion of non-conviction information only adds to the reliability and validity of the risk assessment outcome.

However, to make sure that such information isn't misinterpreted or misused, it is critical that the risk assessment instrument used in the screening process is of the highest standard (see my

comments at Q17 above), and I have yet to see sufficient information to convince me that this will be the case.

Q21) Do you have any comments on the proposed registration period of five years?

The longer the registration period, the greater the risk that a registered person may become unsuitable for holding a WWVP Card without coming to the attention of the WWVP Screening Unit.

Accordingly, perhaps 3 years is a more suitable period?

Q22) Do you support the proposal for the WWVP Screening Unit to contact the employer or organisation to advise of the issuance of an interim negative notice or in the other circumstances proposed?

See comments at Q18 (above).

Additionally, it would appear that the primary purpose of this proposal is to inform an employer that a current employee has been issued with an interim negative notice and, by implication, that they may pose a risk to the children and young people they are already working with.

This raises all sorts of privacy concerns, and could be easily avoided by simply requiring people to hold a valid WWVP Card prior to commencing employment (see Q13 above).

Q23) Do you support the application of a five year prohibition on re-applying for a WWVP Check unless there has been a material change in the information upon which the negative notice was issued? If not, why not?

In principle yes, however this, again, goes back the notion of categories of regulated activities (see Q13 & Q18 above).

Perhaps it might be more appropriate to have a five year prohibition period for high risk activities (the residential care worker), and a shorter prohibition period for lower risk activities (the gardener at a high school).

Q28) Do you have any comments on the estimated processing times for the risk assessment process?

Only that they tend to support my position that employees be required to hold a valid WWVP Card prior to commencement.

Consultation with children & young people

Article 12 of the UNCRC requires that children and young people be consulted in relation to decisions that affect their lives.

This obligation is incorporated into the ACT legislative framework by the *Human Rights Act 2004*. Under the Human Rights Act, a Territory law must, as far as possible, be interpreted in a way consistent with human rights, and international law may be considered in interpreting a human right.

Additionally, the ACT Young People's Plan, the ACT Children's Plan, and the ACT Government Community Engagement Manual all note the Government's commitment to consulting with children and young people.

Research evidence demonstrates that there are many benefits of consulting with children and young people, including more accurate and relevant decisions, and increased understanding and ownership of outcomes by children and young people.

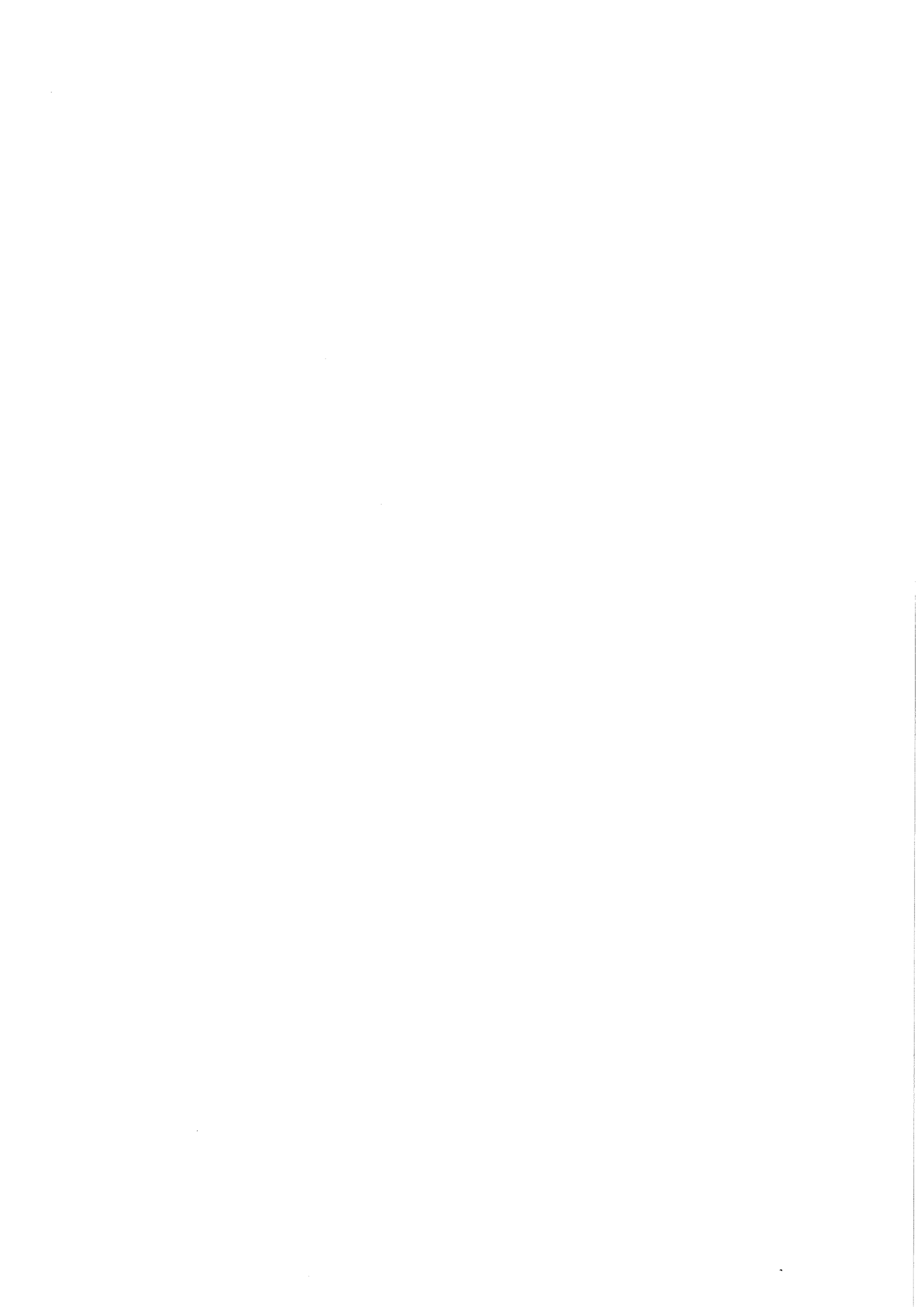
I am disappointed that direct consultation with young people regarding the WWVP Checking System appears to be limited, if non-existent, and I would like to encourage you to consider consultation with young people in any DHCS initiatives.

Should you wish to discuss any of the issues raised above, I may be contacted on 62052222.

Yours sincerely

Alasdair Roy
Commissioner for Children & Young People

16 October 2009



Costello, Sean

From: Bresnan, Amanda on behalf of BRESNAN
Sent: Tuesday, 7 December 2010 11:26 AM
To: Costello, Sean
Cc: Elmir, Bianca
Subject: RE: ACT International Human Rights Day Forum 2010

Hi Sean,

Unfortunately I am unable to make the forum.

I hope it all goes well.

Kind regards

Amanda

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

From: Costello, Sean
Sent: Tuesday, 7 December 2010 11:00 AM
To: BRESNAN
Subject: ACT International Human Rights Day Forum 2010

Ms Bresnan

Please find attached an invitation to attend the ACT Human Rights Commission's Annual International Human Rights Day Forum this Friday 10 December.

Regards

Sean Costello
Human Rights & Discrimination Legal Policy Adviser
ACT Human Rights Commission
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

The ACT Human Rights Commission releases regular updates on our work, including our quarterly newsletter, Humanity. To keep up to date with news in all our areas, you can subscribe by emailing human.rights@act.gov.au. The latest version is at <http://www.hrc.act.gov.au/>



International Human Rights Day

What will human rights in the Territory look like in 2020?

10 December 2010
Reception Room, ACT Legislative Assembly 2010

Chair: Dr Helen Watchirs, ACT Human Rights & Discrimination Commissioner, who will discuss the Territory's first Declaration of Incompatibility recently declared.

Speakers:

- Carrie Graf, Coach of the Australian Opals and Canberra Capitals
- Roslyn Dundas, Director, ACTCOSS
- Professor Andrew Byrnes, Faculty of Law, UNSW

12:30 pm—2:00 pm
Sandwich lunch provided and hearing loop on request.

Free Event
RSVP: human.rights@act.gov.au or 6205 2222. Please include any dietary or accessibility requirements.

Further details on the [attached flyer](#).

Roy, Alasdair

From: Bresnan, Amanda
Sent: Thursday, 16 September 2010 12:23 PM
To: Watchirs, Helen; Durkin, Mary; Roy, Alasdair
Cc: Taylor, Kate; McKinnon, Gabrielle; Costello, Sean; Barnard, Belinda; McGill, Brianna
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Helen,

Thank you for the response.

The legislation is no longer, and hasn't been listed, for debate next week. We have heard informally that it may not be debated until the December sitting week. So there may not be the urgency needed currently.

We will let you know if we hear anything further.

Kind regards

Amanda

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

From: Watchirs, Helen
Sent: Thursday, 16 September 2010 11:52 AM
To: Bresnan, Amanda; Durkin, Mary; Roy, Alasdair
Cc: Taylor, Kate; McKinnon, Gabrielle; Costello, Sean; Barnard, Belinda; McGill, Brianna
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Amanda,

We are currently developing a whole of Commission letter in reply to this issue – I apologise for the delay, but we are urgently finalising our Annual Report. I hope the letter will be ready early next week.

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

From: Bresnan, Amanda
Sent: Wednesday, 1 September 2010 5:06 PM
To: Watchirs, Helen; Durkin, Mary
Cc: Taylor, Kate
Subject: Working with Vulnerable People (Background Checking) Bill 2010

Dear Ms Watchirs and Ms Durkin,

I am writing with regard to the Working with Vulnerable People (Background Checking) Bill 2010. I understand concerns have been raised by Directions ACT with Ms Watchirs about the Bill. I was hoping that once the Human Rights Commission has considered the Bill you might be able to provide me with a copy of your findings, as I understand the ACT Government intends to bring the Bill on for debate in the September sitting week.

For your information, and to assist you in your considerations, the ACT Greens have spoken with representatives of the drug and alcohol and mental health peak bodies, and Directions ACT separately. We note that the peak bodies concerns will largely need to be addressed through the Guidelines that are to be developed on how a 'check' is conducted. The Guidelines will be developed over the next 6 to 9 months in consultation with the community sector, and will be a notifiable instrument (not disallowable). Given this, the Greens have informally proposed to the Government that the Bill not be debated until the Guidelines have been finalised, so that they can also be considered when debating the Bill and ensure that human rights concerns have been fully addressed and can be scrutinised by the ACT Legislative Assembly.

I would also appreciate if Ms Durkin could consider this matter, as I am keen to know whether the right balance is being achieved for those sectors providing health related services through 'peer' measures. The delivery of health related services through peer based models can be very effective but also very difficult to defend, and there have been some disagreements and movements in the ACT in recent years around this area. While recognising the need to protect vulnerable people, the employment or volunteering of people with a lived experience can assist the provision of health services for the drug and alcohol and mental health areas, and I would appreciate your advice on whether the Bill presented ensures the improved health outcomes of clients, which are achieved with peer like health services, are not negatively impacted. I would also appreciate your advice as to whether in your opinion the Working with Vulnerable People Checks are more suitable for some areas of community service, like disability, than others such as drug and alcohol.

I greatly appreciate any assistance you are able to provide on this matter.

Yours sincerely,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130
Email: BRESNAN@parliament.act.gov.au

Costello, Sean

From: Bresnan, Amanda
Sent: Monday, 29 August 2011 3:29 PM
To: Costello, Sean
Subject: RE: Meeting tomorrow

Not a problem.

See you tomorrow.

Amanda

From: Costello, Sean
Sent: Monday, 29 August 2011 3:17 PM
To: Bresnan, Amanda
Cc: Georgeson, Matthew; Watchirs, Helen
Subject: RE: Meeting tomorrow

Dear Amanda

Thank you for your email. I'm am the right person and Helen and I look forward to seeing you tomorrow morning.
Thank you for your email.

Sean

From: Bresnan, Amanda
Sent: Monday, 29 August 2011 1:23 PM
To: Costello, Sean
Cc: Georgeson, Matthew
Subject: Meeting tomorrow

Dear Sean,

I'm not sure if you are the right person to contact, so please let me know if you aren't.

My Adviser Matt has booked in a meeting with the Human Rights Commission for tomorrow. Matt is away today, so I am sending you the issues we would like to discuss with you at our meeting tomorrow.

1. Bullying – the Commission's involvement and possible reforms.
2. Criminal record discrimination
3. 'Social media profile' discrimination
4. Point to point camera investigation

Kind regards

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Costello, Sean

From: Costello, Sean
Sent: Monday, 1 December 2008 11:24 AM
To: BRESNAN

Dear Ms Bresnan

I am writing to invite you to the ACT Human Rights Commission's Community Forum on 10 December 2008, at the ACT Legislative Assembly. The Forum is to celebrate the 60th Anniversary of the Universal Declaration of Human Rights and to promote discussion on changes to the ACT Human Rights ACT which come into effect on 1 January 2009.

Details are:

ACT Human Rights Commission Forum: 60th Anniversary of Universal Declaration of Human Rights

Speakers:

- Simon Corbell MLA, ACT Attorney-General, on the Human Rights Act amendments, which require public authorities to act consistently with human rights.
- Roslyn Dundas, Director of ACT Council of Social Service Inc, and
- Helen Dalley, Solicitor at the Welfare Rights and Legal Centre, who will both provide community perspective on some of the potential impacts of the amendments.

Chair: Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Date: Wednesday 10 December 2008

Time: 12.30 - 2.30pm, with light lunch provided from 12

Venue: Reception Room, ACT Legislative Assembly

RSVP: 3 December 2008

Contact: 6205 2222 | human.rights@act.gov.au

Please advise of any dietary or accessibility requirements. I hope you can make it to this important occasion.

Regards

Helen Watchirs

ACT Human Rights and Discrimination Commissioner

Costello, Sean

From: Costello, Sean
Sent: Monday, 7 December 2009 11:43 AM
To: BRESNAN
Subject: International Human Rights Day 10 December

Dear Ms Bresnan

You are invited to celebrate International Human Rights Day with the ACT Human Rights Commission:

Fulfilling Rights and Accessing Justice ACT HRC International Human Rights Day Forum 10 December 2009

To discuss, five years on, the impact of the Human Rights Act on the ability for all members of our community to access justice

- The Government's view—Simon Corbell MLA, Attorney General
- Issues for Disadvantaged Canberrans—Amy Kilpatrick, Homeless Persons' Legal Service, Welfare Rights & Legal Centre
- A judicial view—Justice Richard Refshauge, ACT Supreme Court
- Issues for Indigenous Canberrans—John Roe, Aboriginal Justice Centre
- The profession's view—Anna Haynes, pro bono coordinator, Clayton Utz

Chair: Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Date: Thursday 10 December 2009

Time: 12:30 pm—2:00 pm

Venue: Reception Room, ACT Legislative Assembly

Sandwich lunch provided.

Please RSVP to human.rights@act.gov.au or 6205 2222.

Costello, Sean

From: Kilpatrick, Amy
Sent: Monday, 29 August 2011 3:37 PM
To: BRESNAN
Cc: Taylor, Kate
Subject: RE: Working with Vulnerable People (Background Checking) Bill 2010

Dear Ms Bresnan,

Thank you for your request for information about the Working with Vulnerable People (Background Checking) Bill 2010. Our comments on this Bill have largely been related to cabinet in confidence processes and as such, we are not able to discuss those matters.

However, the Human Rights and Discrimination Commissioner has recently made a submission about the draft Application Form and Regulations during a community consultation phase. That submission is available on our website along with other submissions we have made in 2011 for your information.

These are available using the following link: <http://www.hrc.act.gov.au/humanrights/content.php/category.view/id/215>

Regards,

Amy Kilpatrick
Human Rights & Discrimination Legal Adviser
ACT Human Rights Commission
t: (02) 6207 3956 (direct)
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

From: Bresnan, Amanda
Sent: Wednesday, 1 September 2010 5:06 PM
To: Watchirs, Helen; Durkin, Mary
Cc: Taylor, Kate
Subject: Working with Vulnerable People (Background Checking) Bill 2010

Dear Ms Watchirs and Ms Durkin,

I am writing with regard to the Working with Vulnerable People (Background Checking) Bill 2010. I understand concerns have been raised by Directions ACT with Ms Watchirs about the Bill. I was hoping that once the Human Rights Commissions has considered the Bill you might be able to provide me with a copy of your findings, as I understand the ACT Government intends to bring the Bill on for debate in the September sitting week.

For your information, and to assist you in your considerations, the ACT Greens have spoken with representatives of the drug and alcohol and mental health peak bodies, and Directions ACT separately. We note that the peak bodies concerns will largely need to be addressed through the Guidelines that are to be developed on how a 'check' is conducted. The Guidelines will be developed over the next 6 to 9 months in consultation with the community sector, and will be a notifiable instrument (not disallowable). Given this, the Greens have informally proposed to the Government that the Bill not be debated until the Guidelines have been finalised, so that they can also be considered when debating the Bill and ensure that human rights concerns have been fully addressed and can be scrutinised by the ACT Legislative Assembly.

I would also appreciate if Ms Durkin could consider this matter, as I am keen to know whether the right balance is being achieved for those sectors providing health related services through 'peer' measures. The delivery of health

related services through peer based models can be very effective but also very difficult to defend, and there have been some disagreements and movements in the ACT in recent years around this area. While recognising the need to protect vulnerable people, the employment or volunteering of people with a lived experience can assist the provision of health services for the drug and alcohol and mental health areas, and I would appreciate your advice on whether the Bill presented ensures the improved health outcomes of clients, which are achieved with peer like health services, are not negatively impacted. I would also appreciate your advice as to whether in your opinion the Working with Vulnerable People Checks are more suitable for some areas of community service, like disability, than others such as drug and alcohol.

I greatly appreciate any assistance you are able to provide on this matter.

Yours sincerely,

Amanda Bresnan

Amanda Bresnan MLA
ACT Greens Member for Brindabella
ACT Greens Whip

ACT Greens Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs, Industrial Relations, and Corrections

Phone no: (02) 6205 0130

Email: BRESNAN@parliament.act.gov.au

Costello, Sean

From: Costello, Sean
Sent: Tuesday, 31 January 2012 5:00 PM
To: BRESNAN
Cc: Taylor, Kate; McKinnon, Gabrielle; Hingston, Matt
Subject: Official Visitor Bill Consultation
Attachments: Official visitor bill consultation 310112.doc

Dear Ms Bresnan

Please find attached the Human Rights Commission's submission to your consultation regarding the Exposure draft of the Public Advocate (Official Visitors) Amendment Bill 2012 (the Bill). We will provide a hard copy to you during the meeting tomorrow.

Regards

Sean Costello
Human Rights & Discrimination Legal Policy Adviser
ACT Human Rights Commission
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

The ACT Human Rights Commission releases regular updates on our work, including our quarterly newsletter, Humanity. To keep up to date with news in all our areas, you can subscribe by emailing human.rights@act.gov.au. The latest version is at <http://www.hrc.act.gov.au/>



**ACT HUMAN RIGHTS
COMMISSION**

Australian Capital Territory

Amanda Bresnan MLA
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

Dear Ms Bresnan

Exposure Draft: Public Advocate (Official Visitors) Amendment Bill 2012

Thank you for the opportunity to comment on the Exposure draft of the Public Advocate (Official Visitors) Amendment Bill 2012 (the Bill).

Official Visitors play a critical role in protecting the human rights of people in the Territory, particularly those in closed environments, and in other vulnerable positions. The Commission welcomes the ACT Greens' proposal to extend the current Official Visitor scheme to provide Official Visitors for people with disabilities and for people experiencing homelessness. We also support the extension of the role of Mental Health Official Visitors and a legislative requirement to appoint an Aboriginal and Torres Strait Islander Official Visitor for Children and Young People and for Corrections.

Nevertheless, we consider that the functions and powers of each of these Official Visitors and their relationship with other oversight agencies raise complex issues and requires more detailed consideration prior to any change. The proposed standardisation of the functions of all Official Visitors, with more formal requirements for complaint handling, may create some overlap with the role of other complaint handling agencies such as the Commission or the Ombudsman, unless these roles and referral requirements are more clearly delineated.

The Commission recognises the need to ensure the independence of Official Visitors from the agencies they oversee, and supports the proposed co-location of Official Visitors in an independent office. However, we consider that it is important to ensure that the separate identity of the Official Visitors is not diluted in any co-location, and that Official Visitors continue to have a voice and role independent of other statutory office holders, including the Public Advocate, if they were to be located there.

Our more detailed comments on the key proposals in the Bill are set out below.

Independence of Official Visitors

The Commission acknowledges the inherent tension in Official Visitors being employed and resourced by the Directorates that they oversee. Although we are not aware of specific difficulties currently arising from this relationship, there is potential for the independence of Official Visitors to be compromised by this funding arrangement.

In the Commission's Report to the ACT Legislative Assembly on the ACT Youth Justice System (Bimberi Report), we also noted the challenge of isolation for the Official Visitor for Children and Young People, particularly as there is currently only one person appointed to this role. In our view, Official Visitors may benefit from the collegiality and support of co-location with other Official Visitors.

We consider that it would be appropriate for Official Visitors to be located with and resourced by a statutory agency which is independent from Government.

Nevertheless, in our view it is important that the roles and identities of the Official Visitors and the statutory agency remain distinct in any co-location arrangement. If Official Visitors were to be subsumed to become part of another office this would effectively reduce the number of independent oversight mechanisms operating in the Territory and could potentially diminish the protection for vulnerable people.

The Commission notes that in clause 13G of the Bill it is proposed that the Public Advocate be given a number of supervisory functions in relation to Official Visitors:

- (a) to oversee and coordinate the activities of official visitors
- (b) to meet with the official visitors at least once every year
- (c) to represent official visitors
- (d) to prepare and circulate publications explaining the role of official visitors
- (e) to supervise the training of official visitors
- (f) to report to the Minister on the work and activities of official visitors

In our view these functions (apart from the requirement to meet with Official Visitors in (b)), could potentially reduce the independence of Official Visitors, as it would appear to allow the Public Advocate to determine or guide the activities of Official Visitors, and to speak on their behalf to the Minister. The Commission considers that it would be more appropriate for the Public Advocate, or other statutory office, to provide administrative support and resourcing only, to preserve the independence of Official Visitors to determine their own activities (within the scope of their duties and subject to the legislative requirements regarding frequency of visits and complaint handling) and to report directly to the Minister.

Although we would have concerns about a direct supervisory relationship in relation to Official Visitors, regular meetings of Official Visitors and other oversight agencies can be an important mechanism for information sharing and professional support. We note that in accordance with recommendation 15.7 of the Bimberi Report, the Commission now convenes a monthly meeting of agencies with external oversight roles at Bimberi Youth Justice Centre, being the Official Visitor, Public Advocate, Children and Young People Commissioner and the Human Rights and Discrimination Commissioner. These meetings have proven very useful, allowing agencies to share information and take a co-ordinated approach in relation to systemic concerns, best interest issues and complaint-handling, drawing on the complementary jurisdictions and responsibilities of each agency.

General Responsibilities of Official Visitors

Under the Bill, it is proposed that the powers and duties of Official Visitors be standardised in line with the most recent legislative model developed in the *Children and Young People Act 2008* (CYP Act). While there are advantages to standardisation, we consider that it would be useful as a first step to clearly map out the differing roles and functions of the various agencies with an oversight role in relation to each visitable place and to better define the relationship between each agency to ensure that resources are used effectively, and that the model in the CYP Act is the most appropriate.

We note that the CYP Act provides for a more formal complaint handling role for the Official Visitor for Children and Young People than is currently the case for Corrections Official Visitors or Mental Health Official Visitors, including requirements for each complaint to be notified in writing to the Director General, and a formal process in relation to the withdrawal and closure of complaints. However, although it gives the Official Visitor discretion to refer complaints to other investigating entities it does not provide guidance as to when referrals are appropriate. In practice, the Official Visitor for Children and Young People has formed effective relationships with the Public Advocate and the Commission, and these agencies have developed protocols for referring matters between agencies as appropriate to avoid duplication of investigation, complaint handling, best interests advocacy and systemic policy work, while retaining a 'first door is the right door' approach for children and young people. Nevertheless, we have concerns that in other areas, the adoption of new more formal complaint handling powers by Official Visitors may significantly change their role or approach. These requirements may result in a greater administrative burden on Official Visitors and may duplicate the more formal role of complaint handling entities such as the Ombudsman and the Commission.

These issues are complicated by the different range of oversight agencies with different functions in relation to the areas covered by the existing and proposed new Official Visitor roles. For children and young people, the Official Visitor, the Public Advocate and the Commission operate at different levels of scope and formality, with the Official Visitor dealing with matters arising within Bimberi or Marlow Cottage, while the Public Advocate has a broader remit to advocate for the best interests of children and young people in detention and in the care and protection system, and finally, the Commission has a more formal role in considering complaints relating to services for children and young people throughout the Territory. However, in other areas the intersection of jurisdictions is different, and in the case of adults in emergency accommodation provided by non-government organisations, there may be no other oversight agency to which complaints can be referred. In our view this complexity may require a more nuanced approach than suggested in the adoption of standardised functions and powers for all Official Visitors.

In addition to the potential differences in the scope of the Official Visitor role, depending on the context and interaction with other agencies, there may also be practical differences in approach. For example, we note that the provision in clause 13M(3) of the Bill, based on s44(3) of the CYP Act obliges an Official Visitor to comply with the request of an entitled person to hear their complaint with no-one else present. This provision is not currently mirrored in the *Corrections Management Act 2007*, and this difference may reflect the differing risks presented by young people in detention compared with adult detainees. While it would generally be the practice of a Corrections Official Visitor to visit a detainee alone, in some cases this may be unsafe and alternative arrangements may be required. It would be appropriate to qualify this provision to ensure that the safety of Official Visitors is properly balanced against confidentiality of complaints.

New Official Visitors and new standards for disability accommodation

Official Visitor for People with Disabilities/Disability standards

The Commission supports the proposal for a new Official Visitor for people with disabilities. The Disability and Community Services Commissioner within the Commission has a role as an oversight agency for disability services, and is able to take complaints relating to these services. However, the Disability and Community Services Commissioner does not have the resources to conduct regular service visits, and is reliant on individuals or their advocates contacting us with their concerns. In our view an Official Visitor for People with Disabilities would provide an important role in identifying issues on the ground and advocating for people in disability accommodation. Nevertheless, the scope of 'disability accommodation' which would be overseen by an Official Visitor is not entirely clear. The Bill would amend the *Disability Services Act 1991* (DS Act) to provide that a 'visitable place' is 'disability accommodation provided by the Territory or a grantee.' It is not clear if this disability accommodation would extend to private accommodation for a person with a disability which is all or partly funded by the Territory. We consider that the role of an Official Visitor who visits people in disability accommodation would need to be more clearly defined to ensure that the privacy and equality rights of individuals are appropriately respected. Different approaches may be required in relation to an individual's private accommodation than for group disability accommodation provided by the Territory or another organisation.

The Commission welcomes the proposal to amend the DS Act to provide for a Register of disability accommodation that meet the necessary standards for safety and quality care, and to ensure that government funding is only allocated to services which meet those standards. However, as noted above, the scope of accommodation which might be subject to these requirements is unclear. We note that disability service providers are already subject to requirements under funding agreements which include disability standards. The Commission would welcome the opportunity to discuss this proposal in more detail.

Official Visitor for People Experiencing Homelessness

The Commission also supports the proposal for a new Official Visitor for people experiencing homelessness. In our view there is a lack of comprehensive oversight and accountability mechanisms for emergency accommodation services and community services more broadly. We note that despite the reference to 'community services' in the title of the Disability and Community Services Commissioner, the Human Rights Commission Act 2005 does not give the Commission specific statutory functions in relation to 'community services.' The Commission may only take complaints in relation to accommodation services where these services fall within other aspects of the Commission's oversight jurisdiction in relation to unlawful discrimination, services for children and young people, services for people with a disability or services for older people.

In our view an Official Visitor would play a useful role in identifying concerns within services and advocating for individuals. However, the impact of the Official Visitor will be limited without a more formal oversight mechanism for community services (including homelessness services) which would allow for investigation and conciliation of complaints. We consider that the Government should legislate to provide a complaints handling jurisdiction to the Commission in relation to community services, including homelessness services.

We further note the recommendation in the Report of the ACT Economic Social and Cultural Rights Research Project, that the ACT *Human Rights Act 2004* be amended to include the right to housing,

recognising the fundamental importance of adequate housing to allow people to live lives of dignity, and the connection between the right to housing and other human rights.¹

Aboriginal and Torres Strait Islander Official Visitors

The Commission supports the proposal for a specific legislative requirement to appoint an Aboriginal and Torres Strait Islander Official Visitor for Children and Young People and for Corrections. Although Aboriginal and Torres Strait Islander Official Visitors may be appointed under existing legislation, this is not guaranteed, and there is currently no Aboriginal and Torres Strait Islander Official Visitor appointed for Children and Young people. In our view, the significant over-representation of Aboriginal and Torres Strait Islander people in Bimberi Youth Justice Centre and in the Alexander Maconochie Centre, and the particular vulnerabilities of these detainees, mean that it is critical that there is always an Official Visitor available in each system to meet the individual cultural needs of Aboriginal and Torres Strait Islander detainees. We note that the specification of an Official Visitor who is an Aboriginal or Torres Strait Islander would be permissible under s.27 of the *Discrimination Act 1991* as special measure intended to give members of a relevant class of people access to facilities, services or opportunities to meet their special needs.

Extension of the role of Mental Health Official Visitors

The Commission supports the extension of the role of Mental Health Official Visitors to provide oversight to people with a mental illness who are under community care or restriction orders. The extension of this role would provide greater protection and advocacy for people under mandatory orders who are required to access particular services, and are in a vulnerable position, although we note that the Public Advocate also has an oversight role in this area. The extension of the Official Visitor role would need to be supported with additional resources to ensure that it does not reduce the level of oversight and protection currently provided to people receiving treatment in mental health facilities. We would welcome further discussion with you regarding the scope of places that would be visitable by Mental Health Official Visitors under the Bill.

We look forward to discussing these issues with you on 1 February. The contact officers for this submission are Gabrielle McKinnon and Matt Hingston, ph 6205 2222.

Yours sincerely



Alasdair Roy
Children and Young People
Commissioner



Mary Durkin
Health Services
Commissioner

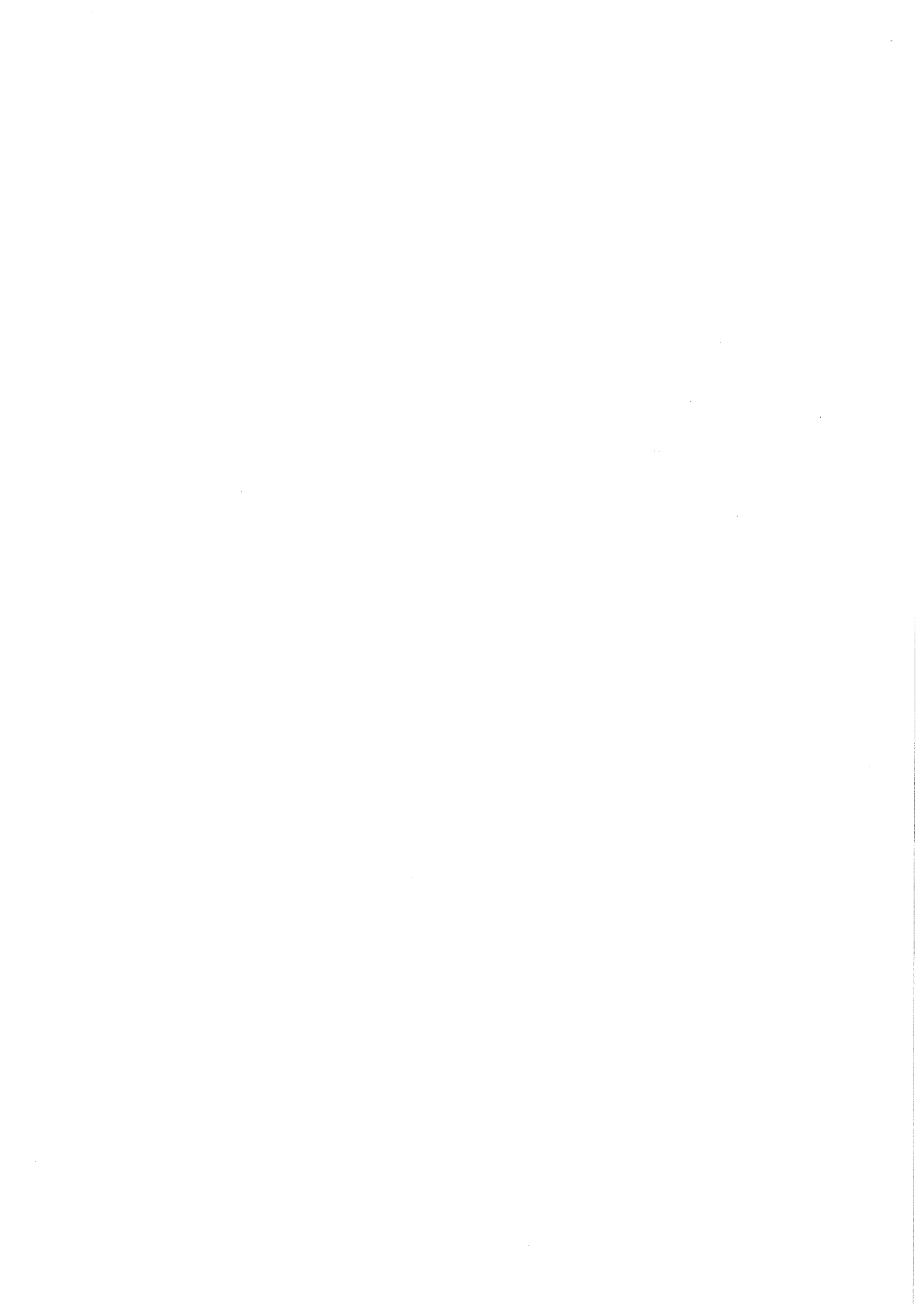


Dr Helen Watchirs
Human Rights and
Discrimination Commissioner

Disability and Community
Services Commissioner

31 January 2012

¹ Australian Research Council Linkage Project Report, September 2010, Recommendation 2



Costello, Sean

From: Costello, Sean
Sent: Monday, 22 June 2009 12:00 PM
To: BARR; GALLAGHER; Hargreaves John; STANHOPE; BURCH; PORTER; RATTENBURY; HUNTER; LECOUTEUR; BRESNAN; Seselja, Zed; DOSZPOT; DUNNE; COE; HANSON; SMYTH
Cc: CORBELL
Subject: ACT Human Rights Commission Art Award Invitation
Attachments: Art Award Invite.pdf

ACT HUMAN RIGHTS COMMISSION ART AWARD FINALIST PRESENTATION

Please find attached an invitation to the 2009 ACT Human Rights Commission Art Award Presentation.

In February 2009, the ACT Human Rights Commission launched its 2009 Art Award. The competition invited young people to create an art piece that reflects their ideas about health. They were asked to express this theme as either a photograph, drawing, painting or digital image.

Winners will be announced by the ACT Attorney General, Mr Simon Corbell MLA, at the **Exhibition Room, ACT Legislative Assembly on Wednesday, 1 July 2009.**

The awards presented will be:

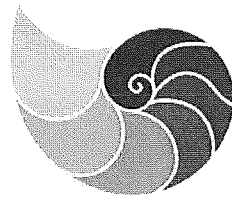
The ACT Human Rights Commission Award

This award is judged by the Human Rights Commission
Prize - \$300 gift voucher from a choice of various outlets

The Children & Young People's Award

This award is judged by the children and young people of Canberra
Prize - \$200 gift voucher from choice of various outlets

The Commission would appreciate if you could RSVP to Katherine Horak (katherine.horak@act.gov.au, 6205 2222) by Friday 26 June.



**HUMAN RIGHTS
COMMISSION**

You are invited to attend the

ACT Human Rights Commission

Art Awards

on

1st July 2009

12:15pm-1:00pm

Exhibition Room, ACT Legislative Assembly

London Circuit

RSVP: Friday 26 June 2009
katherine.horak@act.gov.au

Costello, Sean

From: Georgeson, Matthew
Sent: Thursday, 20 October 2011 11:52 AM
To: Costello, Sean
Subject: Bullying

Dear Sean.

Just wanted to keep you in the loop and let you know that on Tuesday we asked the Chief Minister a question about the Commission and bullying. See below.

Best regards,
Matt

MS HUNTER: Minister, WorkSafe's recent assessment of Canberra food outlets discovered that in most areas of work health and safety, there was a compliance rate of 90 per cent or more. However, only 66 per cent of food outlets were compliant with workplace bullying regulations. Minister, why is there such a low compliance rate with workplace bullying requirements and can you please provide the compliance rate with bullying regulations for other ACT industries?

Mrs Dunne: Because they get such great leadership from the ACT government.

MS GALLAGHER: The usual nasty interjection from Mrs Dunne, who just cannot help herself. Just cannot help herself. I am trying to find out a bit more information for you, Ms Hunter. I have not been provided with, and I am not sure we have available to us, information on other industries in relation to bullying regulations. And this is essentially around having policies and procedures in place which, I might say to Mrs Dunne, are all in place in agencies across ACT government.

The issue that Ms Hunter, if you paid attention, Mrs Dunne, is raising is whether or not there are policies in place. I understand in the food industry there are a number of very small business running, for example, takeaway shops that might not have been aware of the requirement to have in place a policy. My understanding is WorkSafe are trying to provide guidance material to this sector to ensure that they are aware of their responsibilities and can improve the compliance rate around this area. I am sorry I am not able to provide you with information at this point in time but I will undertake to do that around how it relates to other industries.

MS HUNTER: Minister, what consideration has the ACT government given to including bullying as a ground for discrimination under the ACT's Discrimination Act which would give complainants and respondents to bullying complaints access to the Human Rights Commission's investigation and conciliation functions and clear remedies for victimisation of a person making a complaint?

MS GALLAGHER: I am certainly looking at this issue very closely so I would say it is before the government. I do not think it is necessarily a clear way forward. What I am trying to do is ensure that our own processes around workplace bullying across the ACT public service are up to a very high standard and everyone is aware of their responsibilities. And this issue has been raised with me through the course of those discussions. So we have not reached a final position on it and I think we would need to consult particularly with industry and do some analysis of making a decision like that.

But from my point of view, and I have spent a fair bit of time on this since becoming Chief Minister, I would like the government to be a leader in this area in terms of how we respond to and protect and support those people in a workplace, whether they are making allegations of bullying or have had allegations of bullying made against them. But it is a very, very complex area.

Matthew Georgeson
Adviser to Amanda Bresnan MLA
ACT Greens Member for Brindabella
p: 02 62050419

Costello, Sean

From: Georgeson, Matthew
Sent: Monday, 12 September 2011 3:49 PM
To: Costello, Sean
Subject: re: Bullying + other issues

Follow Up Flag: Follow up
Flag Status: Completed

Hi Sean.

Also – would you be able to give me an indication of when you think the P2P advice might be ready?

Thanks
Matt

From: Georgeson, Matthew
Sent: Monday, 5 September 2011 6:03 PM
To: Costello, Sean
Cc: Bresnan, Amanda
Subject: Bullying + other issues

Hi Sean.

Thanks again to you and Helen for coming to see us. Amanda and I both really appreciated that.

Remember we discussed the (possible) changes in the jurisdiction of the EOC in WA, so that it could cover bullying matters? Did you have confirmation of that?

I was reading the EOC's report from a few years ago (http://www.eoc.wa.gov.au/Libraries/pdfs/Final_Report_EOA_Review.sflb.ashx) and I see they recommended that bullying be made a specific ground of 'discrimination' that the Commission could handle (see p19). But I haven't seen confirmation that this change was actually made.

By the way, if you do have any further thoughts about this idea, let us know. I recall Helen saying that a bullying complaint jurisdiction is not a priority (human rights complaint jurisdiction is more important), and you also are already stretched in terms of workload and resources.

How did Helen's speech go, by the way? Did she spark a flurry of interest around the country in social media profile discrimination? ☺ (Actually if you have picked up anything of interest about that topic, we'd be keen to hear).

Thanks
Matt

Matthew Georgeson
Adviser to Amanda Bresnan MLA
ACT Greens Member for Brindabella
p: 02 62050419

Costello, Sean

From: Georgeson, Matthew
Sent: Friday, 20 August 2010 12:44 PM
To: Costello, Sean
Cc: Le Couteur, Caroline
Subject: Letter requesting advice re Trolley Bill
Attachments: Letter to Human Rights Commissioner - Trolleys - 200810.doc

Hi Sean.

As discussed, please see the attached letter from Caroline seeking some further clarification on the advice provided by Dr Watchirs to Mr Stanhope.

Please let me know if you need this letter sent in the post, or more formally, otherwise I will leave it to you to pass on, and we can save on paper ☺

Happy to discuss this any further if you like, and thanks for elaborating on the phone.

Best regards,
Matt

Matt Georgeson
Adviser to Caroline Le Couteur
ACT Greens MLA
ACT Legislative Assembly
ph: 02 6205 0841 fax: 02 6205 3000
www.act.greens.org.au



Caroline Le Couteur **MLA**

Greens Member for Molonglo

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
GPO Box 158
Canberra, ACT, 2601

20 August 2010

Dear Commissioner,

Request for Additional Comments on Trolley Bill

The Government has provided me with a copy of your comments on the Litter (Shopping Trolleys) Amendment Bill 2010 and the proposed amendments to the bill.

Thank you for providing these comments. I appreciate the issues you have raised. Human rights issues are a key concern for myself and the Greens.

I am writing to ask for some further information and clarification on the bill.

1. Litter Act and Trolley Bill

Could you please provide advice on how proposed s24D of my original bill (in conjunction with s24E) compares to the existing offence for littering in the *Litter Act 2004*.

My understanding is that the *Litter Act* currently allows for the penalising of people who take/abandon shopping trolleys. My bill intended to refine this offence specifically in relation to trolleys, in order to recognise the socio-economic disadvantage faced by people commonly taking/abandoning trolleys. It reduced the penalty available for this offence, and it also added a safeguard by requiring a 'direction to return the trolley' to be given before a fine may be issued. My intention was that – from a human rights perspective – my bill made a significant improvement.

2. Clarification on written direction

I note your comments regarding ss24D and 24E. I would appreciate it if you could clarify your analysis that "s24D still appears to leave a person 'at a socio-economic disadvantage' guilty of an offence merely for 'leaving a shopping trolley in a public place'".

The intent of ss24D and 24E is for an authorised person to only ever be able to issue a fine if they have first issued a direction, and the person has failed to comply with it. I understand that you may be referring to the drafting of the provision, in that if an authorised person does not comply with s24E(2), and does not issue a direction, then a person leaving a trolley will still have committed an offence under s24D(1), and will need to make an active defence.

I apologise for the short time frame, but I would appreciate if you can provide me with this advice by Tuesday 24 August. We intend to finalise the bill in the Assembly on 25 August.

Thank you for your assistance.

Yours sincerely,

A handwritten signature in cursive script that reads "Caroline Le Couteur".

Caroline Le Couteur MLA
Greens Member for Molonglo

Costello, Sean

From: Georgeson, Matthew
Sent: Thursday, 25 August 2011 3:47 PM
To: Costello, Sean; Watchirs, Helen
Cc: Bresnan, Amanda
Subject: Letter from Amanda Bresnan re Point to Point Cameras
Attachments: Letter to Human Rights Commissioner.doc

Dear Helen and Sean.

Please see the attached letter from Amanda Bresnan.

Thank you for the discussions we have had so far on this bill.

Best regards,
Matt

Matthew Georgeson
Adviser to Amanda Bresnan MLA
ACT Greens Member for Brindabella
p: 02 62050419

Amanda Bresnan MLA

ACT Greens

Spokesperson for Health, Transport, Disability and Housing, Ageing, Multicultural Affairs,
Industrial Relations, Corrections.

MEMBER FOR BRINDABELLA

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner
Human Rights Commission
Level 4, 12 Moore Street
Canberra ACT 2601

Dear Dr Watchirs,

I refer to the ACT Road Transport (Safety and Traffic Management)
Amendment Bill 2011.

Having spoken with your office, I understand that this bill has not been
referred to you for consideration and comment.

The Greens believe that this legislation raises significant privacy and human
rights concerns.

In the view of the Greens, the bill as presented raises two quite separate
issues. We believe that these issues must be distinguished and approached
separately.

The first issue is the allowing of point to point cameras for the enforcement of
real-time traffic offences – ie speeding. This has been the context in which
this bill has been discussed in the Assembly, the media, and in its explanatory
statement. The bill has a second, very important element. This is not
immediately clear, even after an examination of the bill and accompanying
material.

This second element is the collection and retention of a large amount of data
specifically for the purpose of the police accessing it for later law enforcement
purposes. The data that is intended to be stored includes a picture and time
information of every vehicle that travels through a point to point camera. My
understanding is that the existing legislative framework in combination with
the proposals in this bill would permit this use.

In addition to the protections that would exist around this data, I would also draw your attention to the threshold question of creating a data repository in the first place, and the potential future issues that could arise around this.

The Greens would very much appreciate your considered view of the privacy and wider human rights implications – particularly the elements I have referred to – that arise in relation to this legislation.

I look forward to hearing from you. Thank you.

Yours sincerely,

Amanda Bresnan

25 August 2011

Roy, Alasdair

From: email@addthis.com on behalf of Hunter@parliament.act.gov.au
Sent: Monday, 23 November 2009 11:56 AM
To: Roy, Alasdair
Subject: Hunter@parliament.act.gov.au has shared something with you

Hi Alasdair,

Meredith asked me to forward you this media release from Senator Hanson Young as an FYI.

Regards,
Fiona Walls
02 6205 0106

<http://sarah-hanson-young.greensmps.org.au/content/media-release/greens-call-for-a-commissioner-protect-our-kids>

This message was sent by Hunter@parliament.act.gov.au via <http://addthis.com>. Please note that AddThis does not verify email addresses.

Make sharing easier with the AddThis Toolbar: <http://www.addthis.com/go/toolbar-em>

Costello, Sean

From: Georgeson, Matthew
Sent: Friday, 20 August 2010 5:12 PM
To: McKinnon, Gabrielle
Cc: Watchirs, Helen; Costello, Sean
Subject: RE: Letter requesting advice re Trolley Bill

Thanks for that.

Matt.

From: McKinnon, Gabrielle
Sent: Friday, 20 August 2010 5:09 PM
To: Georgeson, Matthew
Cc: Watchirs, Helen; Costello, Sean
Subject: FW: Letter requesting advice re Trolley Bill

Dear Matt

Please find attached a response from Dr Watchirs to Ms Le Couteur. Please address any queries regarding this letter to Sean Costello.

Kind regards

Gabrielle McKinnon

Human Rights Legal Adviser
ACT Human Rights Commission
Ph 6205 2222
Fax 6207 1034

Please note that I work Wed - Friday. For urgent matters please contact Sean Costello on 6205 2222.

From: Costello, Sean
Sent: Friday, 20 August 2010 1:45 PM
To: Watchirs, Helen
Cc: McKinnon, Gabrielle; Barnard, Belinda
Subject: FW: Letter requesting advice re Trolley Bill

From: Georgeson, Matthew
Sent: Friday, 20 August 2010 12:44 PM
To: Costello, Sean
Cc: Le Couteur, Caroline
Subject: Letter requesting advice re Trolley Bill

Hi Sean.

As discussed, please see the attached letter from Caroline seeking some further clarification on the advice provided by Dr Watchirs to Mr Stanhope.

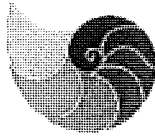
Please let me know if you need this letter sent in the post, or more formally, otherwise I will leave it to you to pass on, and we can save on paper ☺

Happy to discuss this any further if you like, and thanks for elaborating on the phone.

Best regards,
Matt

Matt Georgeson

Adviser to Caroline Le Couteur
ACT Greens MLA
ACT Legislative Assembly
ph: 02 6205 0841 fax: 02 6205 3000
www.act.greens.org.au



HUMAN RIGHTS & DISCRIMINATION COMMISSIONER

ACT Human Rights Commission

Ms Caroline Le Couteur MLA
Greens Member for Molonglo
GPO Box 1020
Canberra ACT 2601

Dear Ms Le Couteur

Additional Comments on the Litter (Shopping Trolleys) Amendment Bill 2010

Thank you for your letter of 20 August 2010 regarding my advice requested by the Chief Minister on the Litter(Shopping Trolleys) Amendment Bill 2010 ("Trolley Bill") and corresponding proposed amendments to the Bill.

Please note that my advice was based on the specific drafting of the provisions in the Bill and accompanying amendments, rather than on the intentions underlying the Bill. I acknowledge that your intention was to improve the current law regarding littering and shopping trolleys, particularly in relation to individuals at socio-economic disadvantage. This is clear from the draft Explanatory Statement, in which you identify the unreasonable impact any littering offence involving trolleys can have on disadvantaged people.

I would be happy to clarify the two points you have raised.

1. *Litter Act* and Trolley Bill

You note that your understanding is that the *Litter Act* currently allows for the penalising of people who take/abandon shopping trolleys, and that the Trolley Bill would reduce the penalty for this offence. I assume you are referring to s. 9 of the *Litter Act* (aggravated littering) which imposes a penalty of up to 100 penalty units for intentionally depositing at a public place litter that, by its nature or the way it is deposited, is likely to cause injury to a person or animal, or to damage property.¹ I do not have the time and resources available to conclusively determine whether shopping trolleys would generally fall within the scope of s.9, but I accept your interpretation of the *Litter Act*. Based on your analysis, I would agree that a reduction in the penalty for abandonment of a shopping trolley would make the existing offence more proportionate under s.28 of the *Human Rights Act 2004*, based on the assumption that such an offence may disproportionately affect people at socio-economic disadvantage. It is clear that your intention was to ensure individuals with such an attribute were not treated unreasonably.

¹ I note that the offence of littering under s.8(1) of the *Litter Act* would also likely apply to the abandonment of a shopping trolley in a public place, but the penalty for this offence is limited to 10 penalty units, which is equivalent to the penalty under the Trolley Bill. The offence of dumping under s.9A may also apply to a shopping trolley if it exceeds a prescribed size for litter. I have not been able to locate any relevant regulations under this provision.

The purpose of my advice is to seek to ensure that such provisions are reasonable and proportionate under the HR Act. In this regard, your changes to existing provisions would improve the proportionality of offences relating to shopping trolleys. In my view, the proposed amendments to the Trolley Bill would further improve the proportionality of the new proposed offences.

Given this potential overlap between the new offences and the existing offences under the *Litter Act*, it might be preferable to ensure that a person guilty of an offence relating to a shopping trolley would not also be guilty of the existing offence under the *Litter Act*. Whilst this might be implicit in these later amendments, such an explicit statement would remove any ambiguity.

2. Clarification on written direction issue

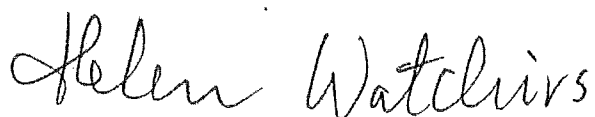
You have also requested further clarification regarding my interpretation of the interplay of proposed sections 24D and 23E of the Trolley Bill. As you identify, my concern was that if a direction was not issued under proposed s.24E, a person could nonetheless be charged with an offence under s.24D and would be unable to rely on the defence of complying with a written notice.

I acknowledge that under s.24E(2) an authorised person or police officer must issue a direction if satisfied on reasonable grounds that a shopping trolley has been left, or a person intends to leave a shopping trolley. However, my concern was the ambiguity that may arise where a person was charged with an offence under s.24D and for some reason an authorised person or police officer had not issued such a notice. It would seem that the statutory construction of s.24D would mean a person could still be guilty of the offence and could not rely on a defence of complying with a notice. The wording of s.24D also suggests that the onus is on the defendant to prove they were complying with such a notice.

In noting that the proposed amendments deal with this issue to some extent, I did make the point in my original advice that consideration should be given to clarifying the status of a notice not properly issued. I suggested that a notice given in harsh or unreasonable circumstances should be invalid, ensuring that a person could not be guilty of the offence in such circumstances.

Thank you for raising these issues with me. Your identification of the potential human rights issues of the existing *Litter Act* will hopefully ensure that more human rights consistent provisions are enacted.

Yours sincerely



Dr Helen Watchirs
Human Rights and Discrimination Commissioner
20 August 2010

Costello, Sean

From: Walls, Fiona
Sent: Wednesday, 3 December 2008 11:49 AM
To: Costello, Sean
Subject: RE: Community Forum

Thanks Sean, I'll let her know.

Things are settling down slowly – and we've started our recruitment process so hopefully soon we'll have more than the skeleton staff & volunteers we have at present.

Hope the new job is going well.

From: Costello, Sean
Sent: Wednesday, 3 December 2008 11:45 AM
To: Walls, Fiona
Subject: RE: Community Forum

Hi Fiona

How are things? The nature of the forum lends itself to people dropping in and out, so absolutely it would be great if Meredith could attend.

thanks

Sean

From: Reynolds, Alice
Sent: Wednesday, 3 December 2008 11:43 AM
To: Costello, Sean
Subject: FW: Community Forum

From: Walls, Fiona
Sent: Wednesday, 3 December 2008 9:21 AM
To: Human Rights
Subject: Community Forum

Hi,

Thanks for inviting Meredith to the Human Rights Commission's Community Forum on 10 December 2008.

Meredith will be available to drop in at approximately 1pm. Could you please let me know if that would be possible?

Kind regards,

Fiona Walls
Office of Meredith Hunter MLA
ACT Greens
ACT Legislative Assembly
Phone: (02) 6205 0106

Fax: (02) 6205 0418

Email: fiona.walls@parliament.act.gov.au

Costello, Sean

From: Costello, Sean
Sent: Monday, 7 December 2009 2:59 PM
To: RATTENBURY
Subject: RE: International Human Rights Day 10 December

Thanks Anna

I'm well thanks. Sorry about the late notice - it would be great if the Speaker could pop past.

Not sure about the sitting day programme - you'll have to touch base with the Attorney's office on that.

cheers

Sean

From: Landon, Anna **On Behalf Of** RATTENBURY
Sent: Monday, 7 December 2009 2:08 PM
To: Costello, Sean
Subject: RE: International Human Rights Day 10 December

Hi Sean

It's a Sitting Day and I think the Speaker already has a meeting during the lunch break but I'll make sure he sees the invitation and calls by the Reception Room if he can.

Will Simon be raising HR Day in the Assembly?

How are you going?

cheers
Anna

Anna Landon
Office of Shane Rattenbury MLA
ACT Greens | Speaker
ACT Legislative Assembly
London Circuit | Canberra 2600
www.parliament.act.gov.au

p: 02 6205 0005
f: 02 6205 0007

From: Costello, Sean
Sent: Monday, 7 December 2009 11:51 AM
To: RATTENBURY
Subject: International Human Rights Day 10 December

Dear Mr Rattenbury

You are invited to celebrate International Human Rights Day with the ACT Human Rights Commission:

Fulfilling Rights and Accessing Justice

ACT HRC International Human Rights Day Forum 10 December 2009

To discuss, five years on, the impact of the Human Rights Act on the ability for all members of our community to access justice

- The Government's view—Simon Corbell MLA, Attorney General
- Issues for Disadvantaged Canberrans—Amy Kilpatrick, Homeless Persons' Legal Service, Welfare Rights & Legal Centre
- A judicial view—Justice Richard Refshauge, ACT Supreme Court
- Issues for Indigenous Canberrans—John Roe, Aboriginal Justice Centre
- The profession's view—Anna Haynes, pro bono coordinator, Clayton Utz

Chair: Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Date: Thursday 10 December 2009

Time: 12:30 pm—2:00 pm

Venue: Reception Room, ACT Legislative Assembly

Sandwich lunch provided.

Please RSVP to human.rights@act.gov.au or 6205 2222.

Costello, Sean

From: Stuart, Laura on behalf of RATTENBURY
Sent: Tuesday, 7 December 2010 12:47 PM
To: Costello, Sean
Subject: RE: ACT International Human Rights Day Forum 2010

Dear Sean,

Unfortunately Shane is not able to attend this event , but his adviser Richard will be there.

Kind Regards,

Laura Stuart
Office of Shane Rattenbury MLA
ACT Greens | Speaker
ACT Legislative Assembly
London Circuit | Canberra 2600
www.parliament.act.gov.au

p: 02 6205 0005
f: 02 6205 0007

From: Costello, Sean
Sent: Tuesday, 7 December 2010 11:14 AM
To: RATTENBURY
Subject: ACT International Human Rights Day Forum 2010

Mr Rattenbury

Please find attached an invitation to attend the ACT Human Rights Commission's Annual International Human Rights Day Forum this Friday 10 December.

Regards

Sean Costello
Human Rights & Discrimination Legal Policy Adviser
ACT Human Rights Commission
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

The ACT Human Rights Commission releases regular updates on our work, including our quarterly newsletter, Humanity. To keep up to date with news in all our areas, you can subscribe by emailing human.rights@act.gov.au. The latest version is at <http://www.hrc.act.gov.au/>



International Human Rights Day

What will human rights in the Territory look like in 2020?

10 December 2010

Reception Room, ACT Legislative Assembly 2010

Chair: Dr Helen Watchirs, ACT Human Rights & Discrimination Commissioner, who will discuss the Territory's first Declaration of Incompatibility recently declared.

Speakers:

- Carrie Graf, Coach of the Australian Opals and Canberra Capitals
- Roslyn Dundas, Director, ACTCOSS
- Professor Andrew Byrnes, Faculty of Law, UNSW

12:30 pm—2:00 pm

Sandwich lunch provided and hearing loop on request.

Free Event

RSVP: human.rights@act.gov.au or 6205 2222. Please include any dietary or accessibility requirements.

Further details on the [attached flyer](#).

Costello, Sean

From: Costello, Sean
Sent: Monday, 1 December 2008 11:24 AM
To: RATTENBURY

Dear Mr Rattenbury

I am writing to invite you to the ACT Human Rights Commission's Community Forum on 10 December 2008, at the ACT Legislative Assembly. The Forum is to celebrate the 60th Anniversary of the Universal Declaration of Human Rights and to promote discussion on changes to the ACT Human Rights ACT which come into effect on 1 January 2009.

Details are:

ACT Human Rights Commission Forum: 60th Anniversary of Universal Declaration of Human Rights

Speakers:

- Simon Corbell MLA, ACT Attorney-General, on the Human Rights Act amendments, which require public authorities to act consistently with human rights.
- Roslyn Dundas, Director of ACT Council of Social Service Inc, and
- Helen Dalley, Solicitor at the Welfare Rights and Legal Centre, who will both provide community perspective on some of the potential impacts of the amendments.

Chair: Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Date: Wednesday 10 December 2008

Time: 12.30 - 2.30pm, with light lunch provided from 12

Venue: Reception Room, ACT Legislative Assembly

RSVP: 3 December 2008

Contact: 6205 2222 | human.rights@act.gov.au

Please advise of any dietary or accessibility requirements. I hope you can make it to this important occasion.

Regards

Helen Watchirs

ACT Human Rights and Discrimination Commissioner

Costello, Sean

From: Watchirs, Helen
Sent: Tuesday, 13 December 2011 10:42 AM
To: Rattenbury, Shane
Cc: Costello, Sean
Subject: RE: Hearing loop

Excellent! – thanks Shane

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au

From: Rattenbury, Shane
Sent: Tuesday, 13 December 2011 9:48 AM
To: Watchirs, Helen
Cc: Costello, Sean; Durkin, Mary; Roy, Alasdair; Duncan, Tom
Subject: RE: Hearing loop

Dear Helen

Thank you for the follow up email to our discussion. I am writing to confirm that I have referred this to the Clerk, and the Secretariat is now investigating the best option for improving access at our facilities. I will be in touch again when we have a better sense of the best approach.

Regards
Shane

Shane Rattenbury MLA
Speaker, ACT Legislative Assembly

ACT Greens Spokesperson for Climate Change, Environment and Water, Energy, Attorney General, Police and Emergency Services, and Tourism, Sport and Recreation

T: (02) 6205 0005
E: rattenbury@parliament.act.gov.au
www.facebook.com/shanerattenburymla

From: Watchirs, Helen
Sent: Friday, 9 December 2011 11:45 AM

To: Rattenbury, Shane
Cc: Costello, Sean; Durkin, Mary; Roy, Alasdair
Subject: Hearing loop

Dear Shane,

As discussed at yesterday's UN Association Forum, the ACT Human Rights Commission annually holds a Community Forum in December at the ACT Legislative Assembly Reception Room to celebrate International Human Rights Day. Yesterday we celebrated our 8th Forum since I was appointed Commissioner in 2004 to mark the 20th Anniversary of the Discrimination Act.

At each of these Forums the Legislative Assembly attendees and other support staff have been exceptionally helpful and accommodating in assisting us run this event. I would like to formally thank them for their assistance and patience. However, the Commission is always anxious to make this event as accessible as possible, and to that end, we have purchased our own portable hearing loop (for a cost of about \$1000) to ensure members of the community who rely on hearing assistance can participate. It is becoming increasingly difficult for us to install our temporary hearing loop, even with the wonderful assistance of the Deafness Resource Centre who charge a \$250 fee.

I am writing to request that you consider installing a permanent hearing loop in the Reception Room.

I understand that the Legislative Assembly's resources are limited. Nonetheless, the Reception Room and other community spaces at the Assembly are wonderful resources for the community and provide a central and otherwise accessible location for the public to meet. I believe a hearing loop would ensure that this Legislative Assembly can continue to meet the needs of the community, and set an example for other venues in the city regarding accessibility. I note that if the Legislative Assembly were built or substantially renovated today, it would be obliged under the Commonwealth *Disability (Access to Premises-Building) Standards* to install such a loop.

Regards,

Helen.

Dr Helen Watchirs OAM
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

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Costello, Sean

From: Costello, Sean
Sent: Tuesday, 7 December 2010 11:12 AM
To: LECOUTEUR
Subject: ACT International Human Rights Day Forum 2010

Ms Le Couteur

Please find attached an invitation to attend the ACT Human Rights Commission's Annual International Human Rights Day Forum this Friday 10 December.

Regards

Sean Costello
Human Rights & Discrimination Legal Policy Adviser
ACT Human Rights Commission
t: (02) 6205 2222
f: (02) 6207 1034
www.hrc.act.gov.au

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International Human Rights Day

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- Roslyn Dundas, Director, ACTCOSS
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12:30 pm—2:00 pm

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Free Event

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Further details on the [attached flyer](#).

Costello, Sean

From: Costello, Sean
Sent: Monday, 1 December 2008 11:24 AM
To: LECOUTEUR

Dear Ms Le Couteur

I am writing to invite you to the ACT Human Rights Commission's Community Forum on 10 December 2008, at the ACT Legislative Assembly. The Forum is to celebrate the 60th Anniversary of the Universal Declaration of Human Rights and to promote discussion on changes to the ACT Human Rights ACT which come into effect on 1 January 2009.

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Date: Wednesday 10 December 2008

Time: 12.30 - 2.30pm, with light lunch provided from 12

Venue: Reception Room, ACT Legislative Assembly

RSVP: 3 December 2008

Contact: 6205 2222 | human.rights@act.gov.au

Please advise of any dietary or accessibility requirements. I hope you can make it to this important occasion.

Regards

Helen Watchirs

ACT Human Rights and Discrimination Commissioner

Costello, Sean

From: Costello, Sean
Sent: Monday, 7 December 2009 11:49 AM
To: LECOUTEUR
Subject: International Human Rights Day 10 December

Dear Ms Le Couteur

You are invited to celebrate International Human Rights Day with the ACT Human Rights Commission:

Fulfilling Rights and Accessing Justice
ACT HRC International Human Rights Day Forum 10 December 2009

To discuss, five years on, the impact of the Human Rights Act on the ability for all members of our community to access justice

- The Government's view—Simon Corbell MLA, Attorney General
- Issues for Disadvantaged Canberrans—Amy Kilpatrick, Homeless Persons' Legal Service, Welfare Rights & Legal Centre
- A judicial view—Justice Richard Refshauge, ACT Supreme Court
- Issues for Indigenous Canberrans—John Roe, Aboriginal Justice Centre
- The profession's view—Anna Haynes, pro bono coordinator, Clayton Utz

Chair: Helen Watchirs, ACT Human Rights and Discrimination Commissioner

Date: Thursday 10 December 2009

Time: 12:30 pm—2:00 pm

Venue: Reception Room, ACT Legislative Assembly

Sandwich lunch provided.

Please RSVP to human.rights@act.gov.au or 6205 2222.

Roy, Alasdair

From: Walls, Fiona on behalf of HUNTER
Sent: Wednesday, 28 January 2009 9:17 AM
To: Roy, Alasdair
Subject: RE: meeting

Hi,

I've booked you in for 9.30am 6th March in Meredith's office.

Cheers,
Fiona

-----Original Message-----

From: Roy, Alasdair
Sent: Wednesday, 28 January 2009 9:10 AM
To: HUNTER
Subject: RE: meeting

Hi Fiona

Thanks for getting back to me so promptly - could I grab sometime on Friday 6 March? Anytime suits me, so I'll fit in with Meredith's schedule.

alasdair

-----Original Message-----

From: Walls, Fiona On Behalf Of HUNTER
Sent: Wednesday, 28 January 2009 9:05 AM
To: Roy, Alasdair
Subject: RE: meeting

Hi Alasdair,

Thanks for your email. Meredith is currently interstate so I am responding to her email on her behalf.

I know she was hoping to set up a meeting with the Commissioner (congratulations on your appointment) so I'm happy to arrange a time with you.

Meredith is free all day on Friday 6th March, after 3pm on Thursday 12th March or after 1pm on Friday 13th March. Would any of those suit?

Please give me a call if you'd like to discuss.

Kind regards,

Fiona Walls
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
ACT Legislative Assembly
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au

-----Original Message-----

From: Roy, Alasdair
Sent: Tuesday, 27 January 2009 5:56 PM
To: HUNTER
Subject: meeting

hi meredith

as you can see from my fancy new signature block, i have been temporarily appointed as the c&yp commissioner!

there a gazillion things which i would like to progress - including an advisory panel, and mechanisms to engage/consult directly with c&yp - be a bit more visible and accesible

anyway, any chance of a catch up some time in the near future? one problem is that i am away from next wednesday for 10 days, however i imagine that your schedule is far more hectic than mine!

Speak to you soon

Alasdair Roy
Children & Young People Commissioner
Human Rights Commission
620502222
Alasdair.Roy@act.gov.au

McKinnon, Gabrielle

From: McKinnon, Gabrielle
Sent: Wednesday, 14 April 2010 4:06 PM
To: Griggs, Richard
Subject: RE: clarification on section 87

Hi Richard

Further to our telephone conversation today, the advice that Dr Watchirs provided in this case was under s.27(b) of the Human Rights Commission Act, which provides that it is one of the functions of the Human Rights Commissioner to advise the Attorney-General on anything relevant to the operation of the Human Rights Act 2004. There is no provision in the Act regarding the tabling of such advice.

My understanding is that s.87 of the Human Rights Commission Act is generally used for reports where a Commissioner has conducted an own-motion investigation of a matter that could have been the subject of a complaint (ie discrimination or health service complaint etc, but not a human rights issue as there is no specific complaints handling function for human rights). Section 77 indicates that this Division of the Act relates to reports made about, or arising from complaints.

Generally more formal reports about human rights issues would be made as 'audit' reports under s.41 of the Human Rights Act which provides that:

The Commission has the following functions:

- (a) review the effect of territory laws, including the common law, on human rights;
- (b) report in writing to the Attorney-General on the results of the review.

These audit reports (eg the Commissioner's audit reports on Corrections) do have tabling requirements.

In this case, however, the Commissioner elected to provide an advice to the Attorney General rather than conducting a formal audit under s41 because we did not have the resources to conduct a full audit, but the Commissioner did have specific concerns about the compatibility of aspects of the BDMR Act with the Human Rights Act.

We will send a copy of our advice to Mr Rattenbury as soon as the Attorney General indicates that he has had the opportunity to consider it, and I will let you know as soon as our advice is made public.

Yours sincerely,

Gabrielle McKinnon
Human Rights Legal Adviser
ACT Human Rights Commission
Ph 6205 2222

From: Griggs, Richard
Sent: Wednesday, 14 April 2010 3:43 PM
To: McKinnon, Gabrielle
Subject: clarification on section 87

Gabrielle

Are you able to help clarify for me what is and is not required to be tabled by the AG. More for future reference than the immediate issue of the sex change advice. I was reading section 87 as covering human rights advice but, if that isn't the case, could you point me in the right direction in the Act?

87 Reporting to Minister

(1) The commission may, on its own initiative, give the Minister a written report about any matter of public importance related to the

commission, the commission's functions or a matter that may be complained about under this Act.

Note The Minister may direct the commission to report under s 17.

(2) If the commission gives the Minister a report mentioned in subsection (1) or a third-party report, the Minister must present the report to the Legislative Assembly within 6 sitting days after the day the Minister receives the report.

regards

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly

ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

TEL: 02 6205 2381 | FAX: 02 6205 0007 | MOB: 0438 252 387

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Hingston, Matt

From: Hingston, Matt
Sent: Tuesday, 13 July 2010 5:32 PM
To: Griggs, Richard
Subject: RE: query on complaints under the Health Practitioner Regulation National Law (ACT) Act 2010

Hi Richard

Happy to help, I'll do some research in the morning. I haven't had the chance to re-familiarise myself with the less-directly-used parts of the new act since our heavy involvement prior to it being passed, so can't speak with confidence off the top of my head.

As it happens, I was planning on double-checking those provisions anyway, as my interest was piqued regarding recent media coverage of the secrecy around actions taken against solicitors in similar context. I'll get back to you shortly.

Regards
Matt

Matt Hingston
Principal Review Officer
Health Services Commissioner's Office
ACT Human Rights Commission
ph (02) 6205 2222

From: Griggs, Richard
Sent: Tuesday, 13 July 2010 5:19 PM
To: Hingston, Matt
Subject: FW: query on complaints under the Health Practitioner Regulation National Law (ACT) Act 2010

Hi Matt

My email below bounced back saying Mary is out of the office. It is not urgent but I wondered if my questions were something you could answer?

Richard

From: Griggs, Richard
Sent: Tuesday, 13 July 2010 5:08 PM
To: Durkin, Mary
Subject: query on complaints under the Health Practitioner Regulation National Law (ACT) Act 2010

Hi Mary

I have a couple of questions on the operation of the *Health Practitioner Regulation National Law (ACT) Act 2010* and my colleague Kate Taylor suggested I contact you.

The essential question I am trying to answer is: following a complaint under the Act, are hearings and investigations about doctors and other health professionals heard in private and is the identity of the professional protected? Or put another way, are journalists prevented from reporting on complaints?

Two specific questions I had are:

Section 216 of the Act deals with a duty of confidentiality. Does this create a non-disclosure requirement for reporters?

Section 199 allows for appeals to the responsible tribunal (ie ACAT for the ACT). Are there any different protections that relate to ACAT appeals.

Any information or advice appreciated.

Please call me or email to clarify anything raised above

thank you

Richard

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly

ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

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Durkin, Mary

From: Durkin, Mary
Sent: Tuesday, 20 July 2010 10:14 AM
To: Griggs, Richard
Subject: RE: query on complaints under the Health Practitioner Regulation National Law (ACT) Act 2010

Hello Richard

Am back at work now. I understand Matt may have discussed this with you already but please feel free to contact me again if you have any further queries.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Griggs, Richard
Sent: Tuesday, 13 July 2010 5:08 PM
To: Durkin, Mary
Subject: query on complaints under the Health Practitioner Regulation National Law (ACT) Act 2010

Hi Mary

I have a couple of questions on the operation of the *Health Practitioner Regulation National Law (ACT) Act 2010* and my colleague Kate Taylor suggested I contact you.

The essential question I am trying to answer is: following a complaint under the Act, are hearings and investigations about doctors and other health professionals heard in private and is the identity of the professional protected? Or put another way, are journalists prevented from reporting on complaints?

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Any information or advice appreciated.

Please call me or email to clarify anything raised above

thank you

Richard

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly

ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

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From: Taylor, Kate
Sent: Wednesday, 23 June 2010 5:03 PM
To: Hingston, Matt
Subject: RE: Hanson motion about Elective Surgery

Hi Matt

Our attempts to negotiate this with the govt weren't successful. There was a blanket no from them in terms of getting more resourcing for the Commissioner for this investigation.

I think we will end up referring this matter to the Auditor General, as she is keen to revisit the audit she did in 2004. The matter still wont be debated till late tonight.

Am really sorry we weren't able to get this up, and best of luck in those 'resource negotiation' meetings...and to Mary's son's arm.

Regards,

Kate

From: Taylor, Kate
Sent: Wednesday, 23 June 2010 2:20 PM
To: Hingston, Matt
Subject: RE: Hanson motion about Elective Surgery

Hi Matt

Here is what we Greens have come up with. Have highlighted the bits relevant to you. Will give you a call.

Cheers

Kate

MR HANSON: To move—That this Assembly:

(1) notes that:

- (a) the Australian Institute of Health and Welfare Australian Hospital Statistics Report 2008-09 released on 17 June 2010 shows that the ACT has the:
 - (i) longest median elective surgery waiting times in Australia;

- (ii) the second highest level of admission per 1000 people in the population and the least number of reporting hospitals;
 - (b) the report shows that since the previous report was released in 2009:
 - (i) the median waiting time for elective surgery in the ACT (days waited at the 50th percentile) has worsened from 72 to 75 days, which is 31 days longer than the national average of 34 days;
 - (ii) the length of time that the majority of people have been waiting for their elective surgery in the ACT (days waited at the 90th percentile) has worsened from 372 to 378 days, which is 158 days longer than the national average of 220 days; and
 - (iii) the percentage of people who have waited more than a year for elective surgery in the ACT has worsened from 10.3% to 10.6% which is more than three times the national average of 2.9%;
 - (c) patients waiting for surgery that should be completed within 60 days (Category 2A) are included in the numbers of people who have been waiting for over a year;
 - (d) allegations have been made about possible manipulation or mismanagement of the elective surgery waiting list;
 - (e) the Office of the Health Services Commissioner has stated a willingness to investigate the allegations if appropriately resourced to do so, but is currently unable to conduct this investigation within current resources; and
 - (f) the Auditor General conducted an audit of 'Waiting Lists for Elective Surgery and Medical Treatment' in 2004, and is interested in revisiting the subject, but currently has resources dedicated elsewhere.
- (2) calls on the ACT Government to provide the Office of the Health Services Commissioner with the level of resources necessary so that it can conduct an investigation into the allegations, and if the Office of the Health Services Commissioner is of the opinion that the Government has not committed to providing an adequate level of resources so that the Office can undertake this investigation;
- (3) calls on the Minister to provide to the Assembly by close of business on 1 July 2010:
- (a) the number of elective surgery patients in the ACT who in the last 24 months have been downgraded from Urgent Category 1 to a lower category;
 - (b) for each case where a patient was downgraded:
 - (i) the details of how long the patient had been on the waiting list as an Urgent Category 1 patient on the day that they were downgraded;
 - (ii) an explanation of why each patient was downgraded from urgent Category 1; and
 - (iii) an explanation of who initiated the decision or the request to downgrade the patient, that being either the patient's doctor or an ACT Health official.

From: Taylor, Kate
Sent: Tuesday, 22 June 2010 6:08 PM
To: Hingston, Matt
Subject: FW: Hanson motion about Elective Surgery

Hi Matt,

I see Mary is out of office. Please see an email below that I sent through, any help you could provide would be great. But appreciate if you feel tentative about saying anything without Mary there.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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From: Taylor, Kate
Sent: Tuesday, 22 June 2010 6:06 PM
To: Durkin, Mary
Subject: Hanson motion about Elective Surgery

Hi Mary,

Mr Hanson has put a motion before the chamber about the elective surgery waiting lists, and concerns about clients being downgraded from Urgent Category 1 to a lower category. It is likely to be debated in the chamber after 5pm tomorrow.

I was hoping you could advise in your role as Health Complaints Commissioner, privately or otherwise, if this is a matter that has raised your concerns and if you have come to any conclusions about this.

Yours sincerely,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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MR HANSON: To move—That this Assembly:

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- (b) the report shows that since the previous report was released in 2009:

- (i) the median waiting time for elective surgery in the ACT (days waited at the 50th percentile) has worsened from 72 to 75 days, which is 31 days longer than the national average of 34 days;
 - (ii) the length of time that the majority of people have been waiting for their elective surgery in the ACT (days waited at the 90th percentile) has worsened from 372 to 378 days, which is 158 days longer than the national average of 220 days; and
 - (iii) the percentage of people who have waited more than a year for elective surgery in the ACT has worsened from 10.3% to 10.6% which is more than three times the national average of 2.9%;
- (c) patients waiting for surgery that should be completed within 60 days (Category 2A) are included in the numbers of people who have been waiting for over a year;
 - (d) allegations have been made that serious mistakes were made and lists were being deliberately manipulated after an elective surgery patient was downgraded from Urgent Category 1, requiring surgery within 30 days, to Semi-Urgent Category 2A, requiring surgery within 60 days;
 - (e) an elective surgery patient has alleged that he was informed by ACT Health staff that in the case of elective surgery patients requiring urgent elective surgery, that "anyone who isn't operated on in the 30 days, the hospital downgrades";
 - (f) the ACT President of the Visiting Medical Officers Association has alleged that the practice of downgrading urgent elective surgery patients who cannot be seen on time is "an illegal stunt that's done by the administration to try and make their figures look better"; and
 - (g) the community has lost confidence in the Minister's ability to effectively manage elective surgery in the ACT and believes that the Government is not doing enough to reduce waiting times for elective surgery;
- (2) calls on the Minister to provide to the Assembly by close of business on 24 June 2010:
- (a) the number of elective surgery patients in the ACT who in the last 24 months have been downgraded from Urgent Category 1 to a lower category;
 - (b) for each case where a patient was downgraded:
 - (i) the details of how long the patient had been on the waiting list as an Urgent Category 1 patient on the day that they were downgraded;
 - (ii) an explanation of why each patient was downgraded from urgent Category 1; and
 - (iii) an explanation of who initiated the decision or the request to downgrade the patient, that being either the patient's doctor or an ACT Health official;
- (3) calls on the Minister to immediately explain to the Assembly why the ACT has the longest waiting times for elective surgery in the nation and why the waiting times have deteriorated under her administration.

Hingston, Matt

From: Durkin, Mary
Sent: Tuesday, 22 June 2010 9:11 PM
To: Taylor, Kate
Cc: Hingston, Matt
Subject: RE: Hanson motion about Elective Surgery

Kate

My apologies but I will not be in tomorrow - my son fractured his arm and we will be at the fracture clinic (which I am told is an all day proposition so very much looking forward to finding out why!)

We certainly have a number of complaints about waiting lists and elective surgery but I have no data to look at from home, or to say whether the complaints we have received were upheld or not.

As to the claims about downgrading for statistical purposes, I must admit that when I read this claim in the paper, I thought it would be something that I would be interested in looking at. I would have been keen to undertake a commissioner-initiated consideration if I had the resources but our staffing situation at the moment is so dire that we are unable to do much more than handle the basic complaint load, and we are only just doing that.

I have cc'd Matt (my health team manager), and if he can offer anything more tomorrow in the way of data (which would be off the record when there is insufficient time to interrogate it properly), I am sure he will get back to you.

.....

All that is "privately" ... but I would be happy for anyone to say that the Commissioner would be happy to look at the downgrading issue if she were appropriately resourced to do so, but that she is unable to do so with the current level of resources.

Regards

Mary

From: Taylor, Kate
Sent: Tue 22/06/2010 6:05 PM
To: Durkin, Mary
Subject: Hanson motion about Elective Surgery

Hi Mary,

Mr Hanson has put a motion before the chamber about the elective surgery waiting lists, and concerns about clients being downgraded from Urgent Category 1 to a lower category. It is likely to be debated in the chamber after 5pm tomorrow.

I was hoping you could advise in your role as Health Complaints Commissioner, privately or otherwise, if this is a matter that has raised your concerns and if you have come to any conclusions about this.

Yours sincerely,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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- (d) allegations have been made that serious mistakes were made and lists were being deliberately manipulated after an elective surgery patient was downgraded from Urgent Category 1, requiring surgery within 30 days, to Semi-Urgent Category 2A, requiring surgery within 60 days;
- (e) an elective surgery patient has alleged that he was informed by ACT Health staff that in the case of elective surgery patients requiring urgent elective surgery, that “anyone who isn’t operated on in the 30 days, the hospital downgrades”;
- (f) the ACT President of the Visiting Medical Officers Association has alleged that the practice of downgrading urgent elective surgery patients who cannot be seen on time is “an illegal stunt that’s done by the administration to try and make their figures look better”; and
- (g) the community has lost confidence in the Minister’s ability to effectively manage elective surgery in the ACT and believes that the Government is not doing enough to reduce waiting times for elective surgery;

(2) calls on the Minister to provide to the Assembly by close of business on 24 June 2010:

- (a) the number of elective surgery patients in the ACT who in the last 24 months have been downgraded from Urgent Category 1 to a lower category;
- (b) for each case where a patient was downgraded:
 - (i) the details of how long the patient had been on the waiting list as an Urgent Category 1 patient on the day that they were downgraded;
 - (ii) an explanation of why each patient was downgraded from urgent Category 1; and
 - (iii) an explanation of who initiated the decision or the request to downgrade the patient, that being either the patient’s doctor or an ACT Health official;

(3) calls on the Minister to immediately explain to the Assembly why the ACT has the longest waiting times for elective surgery in the nation and why the waiting times have deteriorated under her administration.

Hingston, Matt

From: Durkin, Mary
Sent: Tuesday, 27 September 2011 10:48 AM
To: #JACS, Human Rights Commission
Subject: FW: ACT Greens Media: Greens seek to reform Official Visitors laws

From: Taylor, Kate
Sent: Tuesday, 27 September 2011 10:46 AM
To: Taylor, Kate
Subject: FW: ACT Greens Media: Greens seek to reform Official Visitors laws

MEDIA RELEASE

Amanda Bresnan MLA, Disability Spokesperson, ACT Greens

23 September 2011

Greens seek to reform Official Visitors laws

ACT Greens Disability spokesperson, Amanda Bresnan MLA, has announced plans to reform the way vulnerable people are protected, by creating an Official Visitors Bill to provide greater independence and new areas Official Visitors can oversee.

“It is the job of Official Visitors to go into institutions where vulnerable people are living or being cared for, and make sure they are being treated well. Official Visitors provide important oversight and protection, and can speak up on behalf of a vulnerable person,” Ms Bresnan said.

“In other Australian states Official Visitors are situated outside of the government to give them independence. The ACT’s existing Official Visitors^[i] are funded by the Department they comment on, which potentially compromises their independence.

“I will introduce legislation that moves the Official Visitors out of the Directorates and to the Public Advocate’s office. This will provide them with a common home and collegiate support, while gaining independence from the government sectors they comment on.

“The Greens will also move to create an Official Visitor for People with Disabilities, who will visit group and respite homes where people with disabilities stay. This comes from a recommendation in the 2001 Gallop report and was reinforced again by the Assembly’s Health Committee in 2010.

“People from Aboriginal and Torres Strait Islander backgrounds are particularly vulnerable in corrections settings. The ACT has had Official Visitors who specialise in supporting Aboriginal and Torres Strait Islander detainees at an adult and juvenile level. This isn’t required by the legislation, and I will also move to specify this in the legislation.

“I propose to expand the role of the Official Visitor for Mental Health to provide oversight and assistance to people who are on involuntary orders, as well as those staying in hospital or rehabilitation units.

“The changes I propose were committed to by the 2001 Liberal Government^[ii] and 2004 Labor Government^[iii], but have never been implemented. The Greens believe these changes are essential to protect vulnerable people and will be moving to put in place these reforms.

"I plan to release an Exposure Draft of an Official Visitors Bill in coming months for consultation with the community, and then table a final Bill early next year," Ms Bresnan said.

MEDIA CONTACT: Tom Burmester – 0423 657 561 ACT Legislative Assembly GPO Box 1020, Canberra ACT 2601

^[i] The ACT currently has Official Visitors for:

- Children and Young People for those held in the care and protection system at Marlow Cottage, or within the juvenile justice system and being detained at Bimberi Youth Justice Centre.

- Mental Health for those patients who are being treated in the Brian Hennessy Rehabilitation Centre, Ward 2N, the Older Persons Mental Health Inpatient Unit and Hyson Green at Calvary Public Hospital, as well as the Psychiatric Services Unit at Canberra Hospital.

- Corrections for those detainees held at the Alexander Maconochie Centre, the Symonston Period Detention Centre, and places outside correctional centres where detainees work or are engaged in activities.

^[ii] During the 2000 to 2001 Gallop inquiry into disability services representatives of the ACT Government gave evidence stating that the Department's legislative program at the time included a "*community visitors*" proposal, to ensure better consultation with consumers and compliance with disability standards. See page 98 of the Gallop report, which is available at http://www.dhcs.act.gov.au/data/assets/pdf_file/0003/7644/Final_Report.pdf

^[iii] See page 27 of the '*The right system for rights protection: An ACT Government Position Paper on the System of Statutory Oversight in the ACT*', released by the ACT Government in August 2004. Available at http://www.dhcs.act.gov.au/data/assets/pdf_file/0004/7267/RSRP_contents7.pdf

Hingston, Matt

From: Taylor, Kate
Sent: Wednesday, 13 May 2009 2:05 PM
To: Durkin, Mary
Cc: Hingston, Matt
Subject: Complaints made by [REDACTED]

Hi Mary,

We just had a meeting with [REDACTED] who has strong concerns about Ginninderra Gardens. [REDACTED] noted that she relayed some of those complaints to you over the phone a few weeks ago.

Amanda is keen to do some follow with Commonwealth bodies. To assist us in doing this, [REDACTED] gave us permission to follow up with you whether [REDACTED] complaints to the HRC had been investigated, and what the outcomes where.

We would greatly appreciate any advice you could provide on this matter.

Regards,

Kate Taylor

Policy Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Taylor, Kate
Sent: Tuesday, 2 March 2010 1:47 PM
To: Durkin, Mary
Subject: FW: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Hi Mary

Attached are the draft amendments that PCO have done up for us. I don't really get the sense that they hit the target though – do you? Maybe we would be better off changing New Section 150 (4A) rather than adding a New Section 150 (4B).



J2010-42-HlthPrct
tnrRgltnNtnlL...

Cheers

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Durkin, Mary
Sent: Wednesday, 29 September 2010 4:44 PM
To: Taylor, Kate
Subject: RE: Mental illness and homelessness

Hi Kate - tried to call but something seemed to go weird with the phones. Perhaps you might give me a bell re this.
Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

-----Original Message-----

From: Taylor, Kate
Sent: Thursday, 23 September 2010 9:18 AM
To: Durkin, Mary
Subject: FW: Mental illness and homelessness

Hi Mary,

The answer to a qon we put in about people who are homeless exiting PSU is awful - you must read it.

It seems quite contrary to human rights that people who are homeless can not access step-up step down facilities. Surely that is some form of breach.

Could Amanda nmake a formal complaint to the HRC?

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Durkin, Mary
Sent: Wednesday, 2 March 2011 10:22 AM
To: Taylor, Kate
Subject: RE: Health Amendment Bill 2011

Kate

Thanks for your email. I have been consulted and am pleased that ACT Health has included the provisions I sought i.e. the sensible exchange of information between ACT Health, the health profession boards and my office, when there are issues of concern about professional standards in relation to individuals arising from reviews by committees.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Taylor, Kate
Sent: Tuesday, 1 March 2011 5:21 PM
To: Durkin, Mary
Subject: Health Amendment Bill 2011

Hi Mary,

You may already know but just wanted to tell you that the *Health Amendment Bill 2011* is likely to come up for debate in the Assembly between 29 March and 7 April.

The first half of the Bill is about better articulating the Health Act when it comes to quality assurance committees and clinical privilege committees. They don't propose any policy changes.

The second half of the Bill is about setting up the Local Hospital Network, and things like its membership and reporting obligations.

Am guessing the first bit may interest you more and wanted to know if ACT Health had got your ok with it.

A copy of the Bill is at http://www.legislation.act.gov.au/b/db_40824/default.asp

No worries if it doesn't concern you much! Hope all is well.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

To: Durkin, Mary
Subject: FW: Estimates Committee days for the ACT Health portfolio

From: Taylor, Kate
Sent: Wednesday, 4 May 2011 6:55 PM
To: Taylor, Kate
Subject: Estimates Committee days for the ACT Health portfolio

Hi everyone,

The Estimates Committee days for the Health portfolio are on 17, 18 and 19 May. If there are any particular questions about the budget you would really like to get asked please let me know before then and I will try and ensure the questions get asked by our MLAs.

Here is the link to the full Estimates Committee program if you are interested -
<http://www.parliament.act.gov.au/Downloads/Estimates%202011%20-%20Detailed%20Programs.pdf>

Remember - you can always come along and watch if you like, although am sure that doesn't sound like fun to some people!

Kind regards,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Taylor, Kate
Sent: Wednesday, 11 August 2010 2:03 PM
To: Durkin, Mary
Subject: Obstetricians / bullying

Hi Mary

As you are probably aware there has been more talk about allegations of bullying and harrassment within the Obstetrics and Gynaecology Unit at TCH. We are expecting Mr Hanson to move a vote of no-confidence or a censure against the Minister for Health next Tuesday.

We have been told that in about 2003 Mr Patterson, the then Health Complaints Commissioner, did an own-initiative investigation into this issue. Mr Patterson was apparently criticised by the Government about his report, not sure why. Would you happen to have an electronic copy of that report you can e-mail across?

Also – if you happen to have any particular views about the allegations of bullying and harrassment, including whether the bullying culture was just with the one person at the top or more widespread than that, would really appreciate your thoughts.

Now that we Greens know that the Obstetrics and Gynaecology Unit is achieving appropriate clinical outcomes (that's what the latest report said, not positive it happens in absolutely every case though) our next priority is to ensure those staff at lower and middle levels are working in a healthy workplace, but we will have to respond to whatever Mr Hanson move into the Chamber next Tuesday!

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Roy, Alasdair

From: Walls, Fiona on behalf of HUNTER
Sent: Thursday, 8 April 2010 9:26 AM
To: Watchirs, Helen; Roy, Alasdair
Subject: QON about Bimberi
Attachments: 20100408102013666.pdf

Dear Helen and Alasdair,

Meredith has asked me to forward you this question on notice (with response) regarding incidents and breaches at Bimberi.

If you would like to discuss this matter further please feel free to call Meredith or Mel on 02 6205 0106 in the week beginning 19 April 2010.

Regards,

Fiona Walls
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au

-----Original Message-----

From: MLA_HunterOfficeMFD [mailto:MLA_HunterOfficeMFD]
Sent: Thursday, 8 April 2010 10:20 AM
To: HUNTER
Subject:

This E-mail was sent from "LAB00L01P29" (Aficio MP 2851).

Scan Date: 08.04.2010 10:20:13 (+1000)
Queries to: MLA_HunterOfficeMFD



Noted
7/4/10
me

ANSWER TO QUESTION ON NOTICE

Ms Meredith Hunter MLA
Legislative Assembly for the ACT
London Circuit
CANBERRA ACT 2601

6/4/10 - copied for me

Dear Ms Hunter

Please find attached an answer which has been received to question No. 615 which you placed on the Notice Paper on 25 February 2010.

The answer was received on 1 April 2010.

Yours sincerely

A handwritten signature in cursive script that reads "Celeste Italiano".

Celeste Italiano
Notice Paper/Project Officer

1 April 2010

MINISTER FOR CHILDREN AND YOUNG PEOPLE FOR THE AUSTRALIAN CAPITAL
TERRITORY

LEGISLATIVE ASSEMBLY QUESTION

Notice Paper of Thursday 25 February 2010

Question No 615

MS HUNTER asked the Minister for Children and Young People:

- (1) What breakdown figures are there for the 11 different categories of the 129 reported category 2 incidents in Bimberi during the past 12 months.
- (2) How many individual young people were involved in the category 2 breaches in the last 12 months.
- (3) How many of these incidences resulted in further disciplinary action for young people and/or staff.
- (4) Can the Minister provide advice on what the further disciplinary action taken was.
- (5) Was any training implemented to equip staff with skills to better deal with category 2 incidents; if so, what was the training provided.


Minister Burch – The answer to the Member's question is as follows:

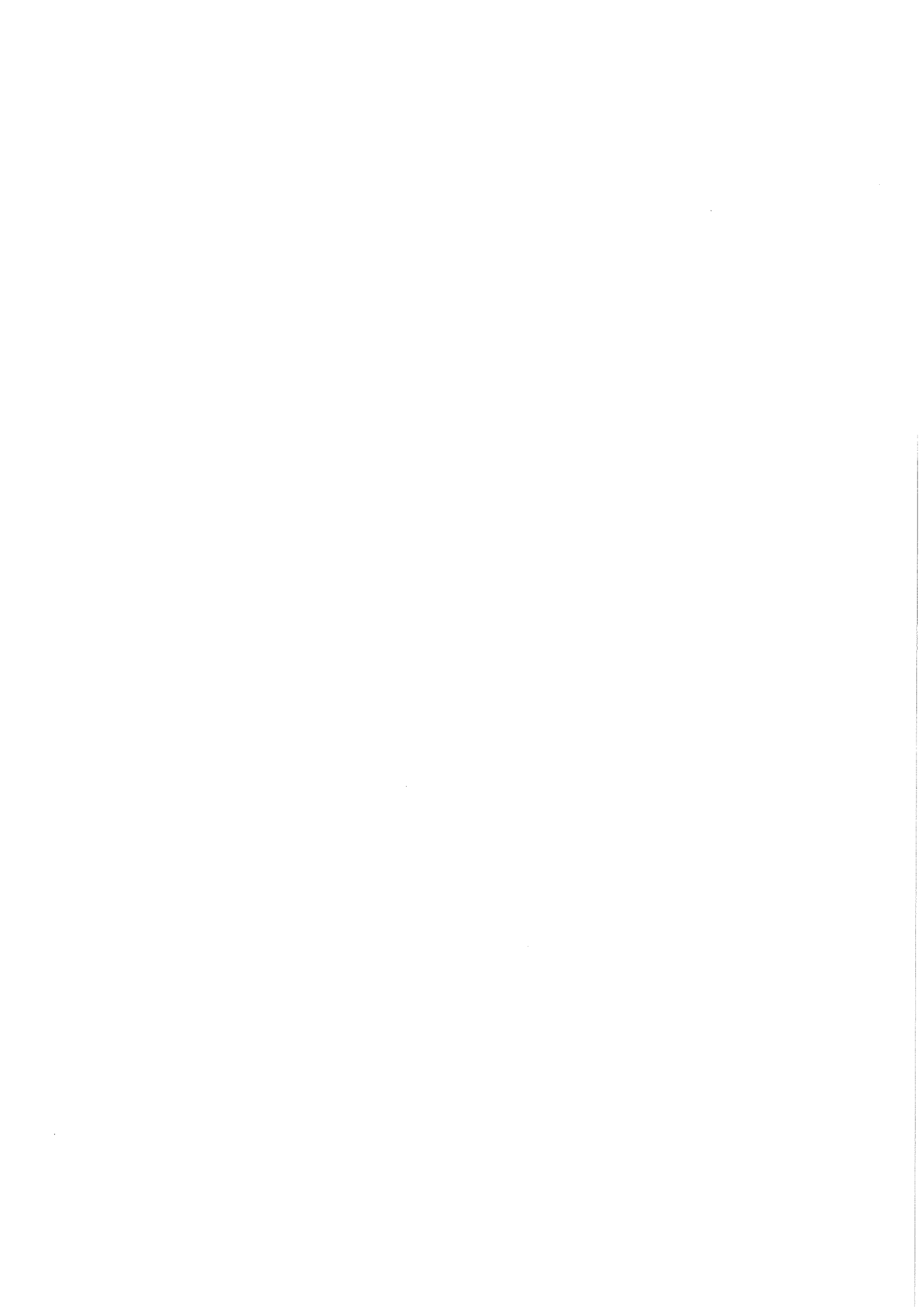
- (1) The 11 different categories of the 129 reported category 2 incidents, with some incidents having more than one category, have been broken down as follows:
 - Assaults which include pushing, shoving, slapping, spitting, fighting between residents, throwing punches or something at a Youth Detention Officer or another resident – 29;
 - Threats against youth detention officers or any other person – 30;
 - Use of Force – 56;
 - Contagious Disease – 0;
 - Minor Breach of Security – 1;
 - Significant disturbance to the Good Order of a detention place – 48;
 - Incident involving contraband (including weapons, tools of escape, and illicit drugs, lighters and cigarettes) – 33;
 - Motor Vehicle Accident – 1;
 - Incident involving visitor/s to the Institution – 1;
 - Possession of a prohibited thing at a detention place by a youth detention officer or staff member – 3; and
 - Any other event which in the opinion of the Manager should be reported – 17.
- (2) Of the 129 reported category 2 incidents there were 42 individual young people involved.
- (3) Due to resource issues it is not possible to assign staff to obtain this information. It should be noted that reportable incidents are not

directly related to behaviour management or discipline of detainees or staff.

- (4) Due to resource issues it is not possible to assign staff to obtain this information. However, the nature of behaviour management and disciplinary action are outlined in the Children and Young People (Behaviour Management Framework) Policy and Procedure 2008 (No. 1) which is available on the ACT Legislation Register, and in relation to staff discipline, the *Public Sector Management Act 1994*.
- (5) Training is continually monitored and improved. Initial policy and procedure training was provided to all staff following the transition from Quamby Youth Detention Centre (Quamby) to Bimberi Youth Justice Centre (Bimberi). Currently, all new staff undertake an initial 9 week comprehensive induction training. This is enhanced with on the job skills maintenance training. Bimberi has identified 3 operational staff as local workplace trainers and assessors. These staff are scheduled to be trained as workplace trainers in de-escalation and Use of Force by a NSW Training Manager. These staff will also complete Workplace Training and Assessment certificates and will be extended to provide training in other critical operational areas. The Office for Children, Youth and Family Support (OCYFS) supervision framework has been implemented and assists in identifying performance management plans for staff. Where possible, utilisation of CCTV footage is used in supervision and debriefing following critical incidents.

Approved for circulation to the Member and incorporation into Hansard.


Joy Burch, MLA
Minister for Children and Young People
Date:.....20/10/2010



Durkin, Mary

From: Durkin, Mary
Sent: Thursday, 11 March 2010 5:22 PM
To: Taylor, Kate
Subject: RE: Health Legislation Amendment Bill 2009 (No 2)

Kate

Thanks and yes I was consulted on this one and am generally happy with how it now looks. A number of my concerns have been picked up on the way and I believe the legislation is now much more consumer friendly than earlier iterations. I remain concerned about the issue of imposing fees for access to records on the closure or transfer of practices (currently this is the only circumstance in which fees cannot be charged). In general, in my view, this is a business decision that should be planned for. But I also appreciate that when doctors have hundreds/maybe thousands of people on their books and their medical indemnity insurers are telling them that they must keep copies of records for seven years or more, it could be a costly exercise to copy the records for transfer elsewhere. I would love to have a handle on how many patients actually decide to simply follow where their records go or move elsewhere without requesting old records, and therefore how many transfers are really occurring and much cost is actually involved for doctors, but I don't believe that data is available.

Nonetheless, I and the Healthcare Consumers Association have a commitment from ACT Health that they will consult on the issue of fees before making any recommendation to the Minister about a new fee determination (and I noted this commitment to the Minister yesterday). It is just unfortunate that the explanatory statement is full of examples about how you get access and they are all tied to paying a fee. But at least it acknowledges (now) that people should not have access denied if they can't afford to pay a fee, and that the appropriate action would be debt recovery rather than effectively withholding medical treatment.

Give me a bell if this is as clear as mud.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Taylor, Kate
Sent: Wednesday, 10 March 2010 10:57 AM
To: Durkin, Mary
Subject: Health Legislation Amendment Bill 2009 (No 2)

Hi Mary,

The Health Legislation Amendment Bill 2009 (No 2) is listed for debate next Tuesday in the Assembly. It is available at http://www.legislation.act.gov.au/b/db_36299/default.asp

Just wondering if there were any comments you wanted to make on it, or concerns to raise?

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Durkin, Mary
Sent: Monday, 22 February 2010 12:24 PM
To: Taylor, Kate
Subject: RE: Human Rights Commission Legislation Amendment Bill 2009

Hi Kate

Yes they are all amendments that we asked for and would be happy to see enacted. The amendments I have sought around the Health Professionals Act and the Human Rights Commission Act will hopefully improve relationships with the boards as we will all have access to the same material at the same time; and ensure that health professionals are not subject to repetitive natural justice processes which only serve to confuse and annoy them. Happy to discuss if any of it needs further explanation.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Taylor, Kate
Sent: Monday, 22 February 2010 11:53 AM
To: Durkin, Mary
Subject: Human Rights Commission Legislation Amendment Bill 2009

Hi Mary

You may be aware that the *Human Rights Commission Legislation Amendment Bill 2009* is being debated tomorrow in the Assembly. I understand there are a few clauses that affect your role. Just wanted to check they were all ok'd by you.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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From: Griggs, Richard
Sent: Monday, 22 February 2010 11:14 AM
To: Taylor, Kate
Subject: health amendments

clauses 13, 14 and 20, 21 of the Bill are on health

G:\Common\Assembly\Govt Legislation\2010\JACS relatively straight forward Bills\Human Rights Commission Legislation Amendment Bill 2009\Human Rights Commission Legislation Amendment Bill 2009.rtf

20 and 21 require the commission to forward on complaints to the relevant health profession board.

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly

ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

TEL: 02 6205 2381 | FAX: 02 6205 0007 | MOB: 0438 252 387

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From: Taylor, Kate
Sent: Tuesday, 10 February 2009 3:38 PM
To: Watchirs, Helen
Cc: Bresnan, Amanda
Subject: Human rights complaint - [REDACTED]

Dear Ms Watchirs,

A constituent named [REDACTED] called Amanda's office today, regarding the conditions in which [REDACTED] is being held in segregation in the BRC. She spoke with me and informed me that she has made a complaint to your office regarding this issue, as well as the ACT Ombudsman. Apparently she spoke with Rebecca Minty from your office.

Before we take any further action I was hoping your office could advise as to whether or not it will be investigating the complaint, and what timeline is anticipated. I asked [REDACTED] today if I could, with her permission, contact you about this matter and she was happy for me to do so.

Please feel free to have someone call me if appropriate.

Regards,

Kate Taylor

Adviser to Amanda Bresnan
ACT Greens MLA for Brindabella
Phone: (02) 6205 0551
Fax: (02) 6205 0498

-----Original Message-----

From: Taylor, Kate

Sent: Tuesday, 21 June 2011 2:18 PM

To: Watchirs, Helen

Subject: Thursday morning - Liberal motion - former AMC Super

Dear Helen,

I am writing because Mr Hanson is bring on a motion in the ACT Legislative Assembly on Thursday morning about the sacking of the former AMC super, and calling for the Assembly's JACS committee to look into it.

We Greens would be unlikely to support the call, but were hoping whether you had an advice, confidential or non-confidential that you could provide on the matter given the role you had to play in examining the videos of the incidents.

I will try and give you a call tomorrow if that's ok.

Kind regards,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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ASSEMBLY BUSINESS

Notice

*1

MR HANSON: To move—That this Assembly

- (1) notes that:
 - (a) since the Alexander Maconochie Centre (AMC) opened in March 2009 there have been numerous superintendants or people acting in that position and the recent Hamburger review found this “lack of continuity of leadership” (p 28) “...created a potential risk to the safety, security and effectiveness of the centre ...” (Finding 15);
 - (b) the Hamburger review noted that in May 2010, the appointment of a “highly experienced officer to fulfil the role of Superintendent ...”, Mr Doug Buchanan, “...provides the opportunity for continuity of appropriately experienced leadership”;
 - (c) the superintendant of the AMC, Mr Doug Buchanan, had his secondment from NSW terminated at short notice in May 2011;
 - (d) the Minister stated in Estimates hearings on 23 May 2011 that Mr Buchanan “had agreed to return to his substantive position in NSW Corrective Services”;
 - (e) in response to a question during Estimates asking if Mr Buchanan was “pushed”, the Minister answered “no”; and
 - (f) Mr Buchanan has stated:
 - (i) publicly that his termination was not voluntary;
 - (ii) publicly that he is the “political fall guy” and was “shattered” by his termination;
 - (iii) to the media that he has been denied due process; and
 - (iv) publicly that he believed that the motivation for his termination was in part due to his opposition to a Needle and Syringe Program (NSP) at the AMC; and
- (2) calls on the Assembly to refer the matter of the termination of the former superintendant, Mr Doug Buchanan, and the lack of continuity in the AMC superintendant position to the Standing Committee on Justice and Community Safety Committee for inquiry. (*Notice given 21 June 2011. Notice will be removed from the Notice Paper unless called on within 8 sitting weeks – standing order 125A*).

From: Taylor, Kate
Sent: Thursday, 12 January 2012 11:04 AM
To: Human Rights
Subject: Meeting about the Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012

Dear Dr Watchirs, Ms Durkin and Mr Roy

I am writing on behalf of Ms Amanda Bresnan to invite you or your appropriate representatives to a meeting on Thursday 9 February from 3.30 to 5pm at the Legislative Assembly.

The purpose of the meeting is to discuss the Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 with Amanda, the Official Visitors, the Public Advocate, and potentially a representative of the ACT Ombudsman.

A copy of the Bill is available at - http://www.legislation.act.gov.au/ed/db_43749/current/rtf/db_43749.rtf. The accompanying discussion paper is at - http://www.legislation.act.gov.au/ca/db_43755/current/rtf/db_43755.rtf

The Greens would also invite you to provide any formal written response to the Exposure Draft as you consider appropriate.

We look forward to discussing the proposed legislation with you further in the near future.

Yours sincerely,

Kate Taylor
Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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From: Georgeson, Matthew
Sent: Wednesday, 24 August 2011 11:10 AM
To: Durkin, Mary
Subject: Road Transport (Safety and Traffic Management) Amendment Bill 2011

Hi Mary. Thanks for the chat. Just to clarify, the bill I am referring to is called the:

Road Transport (Safety and Traffic Management) Amendment Bill 2011

Talk to you soon,
Matt

Matthew Georgeson
Adviser to Amanda Bresnan MLA
ACT Greens Member for Brindabella
p: 02 62050419

Costello, Sean

From: Costello, Sean
Sent: Tuesday, 7 April 2009 3:55 PM
To: Taylor, Kate
Subject: RE: Corrections Management (Exclusions) Policies and Procedures 2009

Hi Kate

Not my area I'm afraid, but I've forwarded to some of the team here.

cheers

Sean

From: Taylor, Kate
Sent: Tuesday, 7 April 2009 3:21 PM
To: Costello, Sean
Subject: Corrections Management (Exclusions) Policies and Procedures 2009

Hi Sean,

Attached is the notifiable instrument listing the operating procedures that are not available for public viewing in regard to the AMC, due to safety and operations requirements.

As per clause 15 of the Corrections Management Act, the HRC and MLAs are permitted to inspect the documents. I believe the HRC has been somewhat involved in the drafting of some of the procedures.

I was hoping you could advise whether the HRC had analysed the documents and had any continuing concerns. We do intend to have a look at a few but there are probably more than we are able to.

Thanks for your help,

Kate Taylor

Policy Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Australian Capital Territory

Corrections Management (Exclusions) Policies and Procedures 2009

Notifiable instrument NI2009-167

made under the

Corrections Management Act 2007, section 14(1) (Corrections policies and operating procedures) and section 15(1) (Exclusions from notified corrections policies and operating procedures)

1 Name of instrument

This instrument is the *Corrections Management (Exclusions) Policies and Procedures 2009*.

2 Commencement

This instrument commences on the day after it is notified.

3 Corrections Policies

I make the policies listed in Schedule 1 to this instrument, to facilitate the effective and efficient management of correctional services.

4 Operational Procedures

I make the procedures listed in Schedule 2 to this instrument, to facilitate the effective and efficient management of correctional services.

Note: The matter contained in the corrections policies listed in Schedule 1 to this instrument, and operational procedures listed in Schedule 2 to this instrument, has been excluded by the Chief Executive, under section 15(1) of the Corrections Management Act 2007 as the Chief Executive believes, on reasonable grounds, that the material would be likely to disclose information that may endanger public safety or undermine justice, security or good order at a correctional centre.

James Ryan
Executive Director
ACT Corrective Services
25 March 2009

SCHEDULE 1

Corrections Policies

- Access to the Control Room and Movement Control Policy
- Admission to Health Facilities Policy
- Armoury Management Policy
- Contemporaneous Notebook Policy
- Escort Policy
- Firearms Policy
- Gate Policy
- Incident Response Policy
- Incident Reporting Policy
- Intelligence Unit Policy
- Internal Communications Policy
- Issue and Control of Keys and Access Fobs Policy
- Management of Tools Policy
- Mobile Phone Detector Policy
- Observations, Muster & Head Checks Policy
- Passive Alert Detector Dog Policy
- Preservation of Evidence and Crime Scene Policy
- Protection Policy
- Prisoner Mail Policy
- Radio Procedure Policy
- Training Aids (Drugs) Policy
- Use of Force Policy
- Use of Restraints Policy

SCHEDULE 2

Operational Procedures

- Accident and Injury Reporting Procedure
- Administration of Medication Procedure
- Admissions Procedure
- Armoury Management Procedure
- Bail Procedure
- Bomb Threat Procedure
- Chemical Munitions Procedure
- Death Procedure
- Staff Member Assaulted / Under Threat of Assault Procedure
- Hostage Procedure
- Escape or Attempted Escape Procedure
- Prisoner Disturbance / Riot Procedure
- Medical Emergency Procedure
- Prisoners Fighting / Prisoners Assaulted Procedure
- Fire Procedure
- Breach of Perimeter Security by External Source Procedure
- Hazardous Materials Spillage or Major Gas Leak Procedure
- Compressed Air Breathing Apparatus Procedure
- Contraband Seizure Procedure
- Declaration of an Emergency Procedure
- Discharge Procedure
- Emergency Access to Main Control Room Procedure
- Escape or Attempted Escape from Escort Procedure
- Escort Procedure
- Fine Defaulters Procedure
- Firearms Procedure
- Incident Reporting Procedure
- Incident Response Procedure
- Industrial Action Procedure
- Management of Blood Spills and Needle Stick Injury Procedure
- Management of Medication Procedure
- Marriages and Civil Partnerships Procedure
- Media Enquiry Procedure

SCHEDULE 2 (Cont'd)

- Observation, Muster & Head Checks Procedure
- Prisoner at Risk Management & Escort Procedure
- Prisoner Classification Procedure
- Prisoner Complaints and Grievances Procedure
- Prisoner Discipline Procedure
- Prisoner Funds Management Procedure
- Prisoner Mail Procedure
- Prisoner Property Procedure
- Preservation of Evidence Procedure
- Searching Procedure
- Storage of Drug (Training Aids) Procedure
- Stores Ordering Procedure
- Training Material Authorised Procedure – Training Providers
- Urinalysis Procedure
- Use of Force Procedure
- Use of Restraints Procedure
- Vehicle Accident or Breakdown Procedure
- Voluntary Starvation Procedure
- Weapons and Munitions Transportation Procedure

Costello, Sean

From: Watchirs, Helen
Sent: Thursday, 4 February 2010 6:34 PM
To: Taylor, Kate; Costello, Sean; McKinnon, Gabrielle
Cc: Durkin, Mary; Bresnan, Amanda; Moody, Patrick
Subject: RE: blood testing of detainees when they exit AMC
Attachments: Dolan_etal_2010_EurJEpidemiol (2).pdf

Dear Kate,

Under s.27(2)(b) of the *Human Rights Commission Act 2005* I have a function of providing advice to the Attorney-General, and I have not yet been formally asked to consider this issue. I attach a recent study on this issue which may be of interest, where NSW inmates participated voluntarily. Sub-section 10(2) of the *Human Rights Act 2004* provides that 'no-one may be subjected to medical or scientific experimentation or treatment without his or her free consent'. This right may be subject to proportionate limitations by legislation under s.28, but I would need to devote significant resources to provide a formal advice on this specific question. Under the *Corrections Management Act 2007*, I can see no specific authority for mandatory testing of detainees on exit, as current provisions only relate to health care, assessments and reports, ie ss.53, 68 and 77.

Regards,

Helen.

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at <http://www.hrc.act.gov.au>

From: Taylor, Kate
Sent: Monday, 1 February 2010 3:47 PM
To: Watchirs, Helen
Cc: Durkin, Mary; Bresnan, Amanda; Moody, Patrick
Subject: blood testing of detainees when they exit AMC

Dear Ms Watchirs

It appears that detainees are not being blood tested when they exit the AMC. As such, the Greens are concerned that Government will not have the most accurate data about infection rates at the AMC when it is considers later this year whether or not to introduce an NSP.

We were hoping you might be able to provide some advice as to whether the Government could compel detainees to have a blood test done on entry and exit from AMC, or whether such actions would contravene the human rights of the detainees?

To assist your consideration of this, please find below Hansard from 8 December where the matter was discussed in the Assembly.

Yours sincerely,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Alexander Maconochie Centre—infection rates

MS BRESNAN: My question is to the Minister for Health. It is about the Alexander Maconochie Centre and blood-borne viruses. I understand that the ACT government is looking to collect over 18 months data about blood-borne virus infection rates of remandees and detainees. Minister, can you please advise us whether all remandees and detainees are tested for blood-borne viruses on release or exit from the AMC? If not, why not?

MS GALLAGHER: My understanding is that they are tested on arrival at the AMC through the routine medical assessment that they go through. Is that the question you were asking? It is voluntary. It is run by ACT Health within the corrections framework. It is an individual-based decision on the type of care they are after and the treatment they are provided with, based on what their own medical needs are and what their own desires are.

MR SPEAKER: Ms Bresnan, a supplementary question?

MS BRESNAN: Thank you, Mr Speaker. Minister, is it possible for the government to take action so that it can test all remandees and detainees upon release and, if it is possible, how is the government advancing implementation of this?

MS GALLAGHER: This is one of those issues that requires a lot of work in consultation, indeed, with individual residents themselves. It is very hard to compel anyone to undergo any kind of medical procedure or testing if they object to it. They are, I think, some of the issues that Health and corrections will work through as we formalise the process forward on the review that we have committed to over the 18-month period.

It is a human rights compliant jail. It is very difficult, and I would be interested if the Greens have any views on how we would compel individuals who are against having a blood test done and force them to have a blood test against their will. I would think that, if it does not contravene standards, it would certainly raise concerns, I would imagine, with the Human Rights Commission about compelling an individual to undergo testing.

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Thank you. Minister, with regard to any possible human rights concerns about forced blood sampling, have you sought the advice of the human rights commissioner on this issue and, if so, what has been her response?

MS GALLAGHER: I have not sought it on that specific issue. I have had discussions with Health, and indeed with the Attorney-General, around how we proceed forward on putting together a working group and terms of reference for how the review is going to proceed, what data it collects, and how useful that data is if a number of the individuals are not allowing blood testing and the impact that they may have on the quality of data that we are then required to make our decision on about the provision of health services in Alexander Maconochie Centre. But I can absolutely guarantee that the views of the Human Rights Commission will be involved in that in terms of advising that working party or directly working within the framework of the working party.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Minister, given the confusion over the opening date of the Alexander Maconochie Centre, can you update the Assembly on what date the 18-month trial will actually conclude?

MS GALLAGHER: I think we were always clear that it would be 18 months of data collected from residents within the Alexander Maconochie Centre, so when we had 18 months of data we would base our decision on that.

Mr Hanson: When is that?

MS GALLAGHER: Eighteen months after the data started being collected, Mr Hanson.

Incidence and risk for acute hepatitis C infection during imprisonment in Australia

Kate Dolan · Suzy Teutsch · Nicolas Scheuer ·
Michael Levy · William Rawlinson ·
John Kaldor · Andrew Lloyd · Paul Haber

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Abstract To determine hepatitis C incidence and the demographic and behavioural predictors in seronegative drug injecting prisoners. Prisoners in New South Wales, Australia who: were aged 18 years and over; reported IDU; had been continuously imprisoned; had a documented negative HCV antibody test result in prison in the last 12 months; provided written informed consent. Subjects were interviewed about their demographic characteristics and detailed risk factors for transmission prior to, and since, imprisonment. A blood sample was collected to screen for HCV antibodies by ELISA and RNA by PCR. Of 253 inmates recruited, 120 were continuously

imprisoned and included in this analysis. Sixteen acquired HCV infection indicating an incidence of 34.2 per 100 person years (CI: 19.6–55.6). Risk factors for transmission included prior imprisonment, methadone treatment and greater than 10 years of education. Although the frequency of injecting was reduced in prison, 33.6% continued to inject drugs, most commonly methamphetamine, and 90% of these reported sharing injecting equipment. Prison inmates were at high risk of HCV infection, despite some reduction in high-risk behaviours and access to prevention services. To prevent HCV transmission in prisons, better prevention strategies are required.

K. Dolan (✉) · N. Scheuer
National Drug and Alcohol Research Centre, University of New
South Wales, Sydney, NSW 2052, Australia
e-mail: k.dolan@unsw.edu.au

S. Teutsch · A. Lloyd
Centre for Infection and Inflammation Research, School of
Medical Sciences, University of New South Wales, Sydney,
NSW, Australia

M. Levy
School of Public Health, The University of Sydney, Sydney,
NSW, Australia

W. Rawlinson
Virology Division, SEALS, Prince of Wales Hospital,
Randwick, NSW, Australia

J. Kaldor
National Centre for HIV Epidemiology and Clinical Research,
University of New South Wales, Sydney, NSW, Australia

P. Haber
Drug Health Services, Royal Prince Alfred Hospital and
Discipline of Addiction Medicine, University of Sydney,
Sydney, NSW, Australia

Keywords Prisoners · Hepatitis C · Injecting drug use ·
Incidence

Abbreviations

HCV Hepatitis C virus
IDU Injecting drug use(rs)
NSW New South Wales

Introduction

Approximately 2.2% of world's population is infected with hepatitis C (HCV; [1]). As HCV is a blood borne viral infection, injecting drug users (IDUs) are the primary group of interest, with imprisoned IDUs requiring special attention. IDUs are imprisoned at alarming rates, with over half and up to 90% having been imprisoned at some time [2]. Estimates of IDUs engaging in injecting in prison range from 11 [3] to 53% [4]. Evidence of intraprison HCV transmission comes from case reports linked to IDU [5], tattooing [6], bloody fights [7], reuse of barber's shears [8]

and sexual transmission via anal sex [9]. HCV seroincidence studies have focused on general prisoners resulting in very low rates of transmission; 0.4 to 1.1 per 100 person years [10, 11] and even zero HCV transmission [12].

Conversely, studies with high HCV incidence rates have been unable to determine whether transmission occurred in prison or in the community. For example HCV incidence ranged from 25 to 38 per 100 person years among IDUs who were released from prison and re-incarcerated [13, 14]. As HCV seroconversion has been inversely associated with the length of imprisonment [13, 15] and IDUs typically serving short prison sentences, it is essential to determine the contribution of the prison setting to the HCV epidemic.

Methadone maintenance treatment is the most effective treatment available for heroin dependence, resulting in reduced heroin use [16, 17] and HIV transmission [17]. MMT is likely to reduce HCV transmission [18] but clear evidence is yet to be reported. MMT is cost-effective [19] and has higher retention rates than other forms of treatment for drug dependence [20]. The provision of MMT in prison has increased from five [21] to at least 29 countries [22] over the last decade.

Few studies have systematically observed the primary group of interest, drug injectors continuously imprisoned, for HCV seroincidence and recorded a range of risk factors for transmission. The aim of this study was to determine the HCV seroincidence in IDU prison inmates, and to identify demographic and behavioural predictors of incident infection.

Methods

From September 2005 to July 2007, inmates were recruited in 13 prisons in New South Wales (NSW), as part of a prospective cohort. Inmates were eligible if they were aged over 17 years old, had injected drugs, had a documented negative HCV antibody test result within the last 12 months, but at least 6 weeks after their most recent date of entry into prison, were continuous imprisonment from 6 weeks prior to their last negative HCV test, and had adequate English to provide written informed consent. Inmates were excluded if they had a severe mental illness, were HIV positive or were pregnant. Recruitment was via posters at prison clinics, word of mouth among inmates and by research nurses approaching inmates with a negative HCV antibody test result in their medical record. Subjects received \$A10 reimbursement.

Subjects were interviewed about their demographic characteristics, injecting behaviour, physical assaults or injuries, tattooing and piercing before and during imprisonment. The average reliability on test-retest was high

($\alpha = 0.98$). The kappa coefficient for the inter-operator reliability had a strong general agreement between two interviews ($\kappa = 0.78$).

A blood sample was collected at enrollment. HCV antibody testing used the qualitative Abbott ARCHITECT Anti-HCV chemiluminescent microparticle immunoassay (Abbott Diagnostics, Abbott Park, IL, USA), and was confirmed by the INNOTEST HCV Ab IV ELISA assay (Innogenetics, Gent, Belgium). Qualitative HCV RNA detection used the VERSANT HCV RNA Qualitative Transcription Mediated Amplification (TMA) assay (Bayer Diagnostics, Emeryville, CA, USA). A case was defined as having tested antibody positive or RNA positive. A control remained negative on both tests.

Univariate analysis was used to examine associations between demographic and behavioural risk factors for HCV infection. HCV incidence was calculated using the person-time method [23]. Cox proportional hazard and Kaplan–Meier survival analyses were used to model time to seroconversion and behavioural risk predictors of HCV incidence. All statistical analyses were performed using the SAS (v. 9.1) and SPSS (for Windows, v. 15.0, Chicago, IL, USA) software packages. Ethical approval was obtained from the relevant ethics committees. Written informed consent was obtained from subjects at enrolment.

Results

Of the 253 prison inmates recruited, 120 were eligible. The sample was predominantly male ($n = 98$; 82%), with a mean age of 27 years (standard deviation; SD 6) and had been injecting for a mean of 9 years [SD 6]. The sample was also overwhelmingly born in Australia ($n = 110$; 92%) and a sizeable proportion was of Aboriginal or Torres Strait Islander descent ($n = 33$; 28%). Most had been in prison before ($n = 81$; 69%), were tattooed ($n = 89$; 74%) and had piercings ($n = 89$; 74%; Table 1).

For the group as a whole, the prevalence of injecting was significantly higher in the 3 months before prison entry (76%) than following imprisonment (34%; $P < 0.001$). Conversely the frequency of sharing injecting equipment was significantly lower before prison entry (39%) than following imprisonment (90%; $P < 0.001$). Most subjects had injected daily ($n = 88$; 75%) and shared injecting equipment ($n = 79$; 66%) in the past (Table 1).

HCV incidence

Of the 16 incident HCV cases detected, 14 were antibody positive and two were antibody negative, but RNA positive. Of the 16 incident cases, 10 were HCV RNA positive. HCV genotypes have been obtained for six of the ten RNA

Table 1 Demographic and risk behaviour for subjects ($n = 120$)

Variable	Total $N = 120$ (%)	Incident cases $N = 16$ (%)	Controls $N = 104$ (%)	<i>P</i> value
Age (mean years)	27 ± 6.3	27 ± 5.7	27 ± 6.3	
Male gender; N (%)	98 (81.7)	12 (75)	86 (82.7)	
Born in Australia	110 (91.7)	14 (87.5)	96 (92.3)	
Aboriginal/Torres Strait Islander	33 (27.5)	5 (31.3)	28 (26.9)	
>10 years of education	20 (16.7)	6 (37.5)	14 (13.5)	0.03
Duration of IDU (mean years)	8.7 ± 6	9.6 ± 6.1	8.5 ± 6	
Duration imprisonment (mean weeks)	89 ± 120.6	78.3 ± 67.1	90.6 ± 127	
Previously imprisoned	81 (69.2)	14 (87.5)	67 (66.3)	0.09
Ever tattooed	89 (74.2)	14 (87.5)	75 (72.1)	
Ever pierced	89 (74.2)	13 (81.3)	76 (73.1)	
Ever blood fight	60 (56.1)	7 (53.8)	53 (56.4)	
Ever stabbed	36 (30)	3 (18.8)	33 (31.7)	
Ever injected Heroin	77 (64)	12 (75)	65 (62.5)	
Ever injected Methamphetamine	106 (88.3)	13 (81.3)	93 (89.4)	
Daily IDU ever	88 (74.6)	15 (93.8)	73 (71.6)	0.07
Ever shared injecting equipment	79 (65.8)	13 (81.3)	66 (65.8)	
IDU in 3 months before prison	91 (75.8)	15 (93.8)	76 (73.1)	0.07
Daily IDU in 3 months before prison	62 (68.9)	13 (86.7)	49 (65.3)	
Shared injecting equipment in 3 months before prison	35 (38.9)	6 (40)	29 (38.7)	
Shared needle & syringe in 3 months before prison	17 (14.2)	3 (18.8)	14 (13.4)	
IDU since entry into prison	40 (33.6)	8 (50)	32 (31)	0.14
Shared any injecting equipment since entry into prison	36 (30.0)	7 (43.8)	29 (27.9)	
Currently on MMT	23 (19.3)	8 (50)	15 (14.6)	0.003
Methadone dose decreasing in last month	5 (22.7)	1 (14.3)	4 (26.7)	
Mean methadone dose (mg)	61 ± 36	43.1 ± 25.6	70.6 ± 38.7	0.08
Days methadone missed since arrested (mean ± SD)	0.3 ± 0.7	0.17 ± 0.4	0.36 ± 0.7	

positive cases. Four had genotype 1a and two had genotype 3a. There was no clustering of cases.

HCV incidence was 34.2 per 100 person years (95% CI: 19.6–55.6). Cases were significantly more likely to have had more than 10 years of education (38 vs. 14%, $P < 0.05$) and be currently in methadone maintenance treatment than control subjects (50 vs. 15%, $P < 0.005$).

Mean doses of methadone were low (43 vs. 70 mg) but not significantly different between cases and control subjects.

The survival analysis (Table 2) revealed significant positive associations with HCV infection and methadone maintenance treatment ($P = 0.0002$), as well as having more than 10 years of schooling ($P = 0.001$), and previous imprisonment ($P = 0.042$). Univariate analysis showed

Table 2 Demographic and behavioural risk predictors of HCV incidence as determined by survival analysis

Variable	DF	Estimate	Error	Chi-Square	<i>P</i>	OR	CI _s
Previous imprisonment	1	1.59	0.78	4.14	0.042*	4.92	1.06–22.79
>10 years of education	1	2.04	0.62	10.83	0.001**	7.69	2.28–25.93
Ever injected drugs since entry into prison this time	1	0.61	0.52	1.38	0.24	1.84	0.67–5.12
MMT	1	2.1	0.57	13.58	0.0002***	8.17	2.67–24.98
Observation period ^a	1	−0.23	0.53	0.2	0.65	0.79	0.28–2.23
Age >25 at 1st test	1	0.53	0.56	0.92	0.34	1.7	0.57–5.05

^a Observation period calculated as 222+ days of imprisonment vs 222− at first test time (222 days represents the median)

* $P < 0.05$; ** $P < 0.001$; *** $P < 0.0001$

Table 3 Comparison of injecting and sharing behaviours in continuously imprisoned inmates receiving MMT vs. those not receiving MMT

Variable	Total <i>N</i> (%)	Receiving MMT <i>N</i> (%) [HCV incident cases <i>N</i>]	Not receiving MMT <i>N</i> (%) [HCV incident cases <i>N</i>]	<i>P</i> value
Study cohort	120	23 (19) [8]	97 (81) [8]	
Daily IDU ever	88 (75.2)	22 (100) [8]	66 (69.5) [7]	0.003**
IDU in 3 months before entry into prison this time	90 (75)	22 (95.7) [8]	68 (70.8) [7]	0.01*
Daily IDU in 3 months before entry into prison this time	62 (69.7)	18 (85.7) [7]	44 (64.7) [6]	0.07
Stable pattern of injecting in 3 months before entry into prison this time	24 (26.7)	8 (36.4) [3]	16 (23.5) [2]	NS
IDU since entry into prison this time	40 (33.6)	9 (39.1) [4]	31 (32.6) [4]	NS
Daily IDU since entry into prison this time	1 (2.6)	1 (11.1) [0]	0 [0]	NS
Decreasing pattern of injecting since entry into prison this time	31 (77.5)	9 (100) [4]	22 (71) [3]	0.09
Ever shared injecting equipment	78 (65)	17 (73.9) [6]	61 (63.5) [7]	NS
Shared injecting equipment in 3 months before prison this time	34 (38.2)	7 (31.8) [2]	27 (40.3) [4]	NS
Shared needle & syringe in 3 months before prison this time	16 (69.6)	2 (50) [1]	14 (73.7) [2]	NS
Shared injecting equipment since entry into prison this time	36 (90)	7 (77.8) [3]	29 (93.5) [4]	NS
Shared needle & syringe since entry into prison this time	33 (100)	6 (100) [2]	27 (100) [3]	NS

* $P < 0.05$; ** $P < 0.01$

that no particular drug, frequency of injecting in prison, or frequency of sharing was significantly associated with incident HCV infection (Table 1). Half of the incident cases reported no IDU during the current period of incarceration and all except one reported IDU in the preceding 3 months. An analysis of other lifetime risk factors such as being tattooed, pierced, involved in a bloody fight, being stabbed or having one's skin or scalp cut while having one's hair cut found no difference between cases and controls.

Associations between methadone maintenance treatment and HCV infection were examined in more detail according to treatment status (Table 3). Inmates in MMT were significantly more likely to report ever having injected daily (100 vs. 70%, $P < 0.005$) and to have injected in the 3 months before entry into prison (96 vs. 71%, $P = 0.01$) than those not in MMT.

Discussion

This is the largest reported "in prison" cohort examining HCV transmission with a comprehensive analysis of behavioural risks among injecting drug users. HCV sero-incidence in prison was alarmingly high at 34.2 per 100 person years. Given the high rate of imprisonment of IDUs, typically for short periods of time, intraprisson HCV transmission found in this study shows the crucial role prisons play in sustaining the epidemic. The findings of the study therefore have important implications for the HCV prevention strategies in both the prison setting and the general community.

With one in three IDU inmates becoming infected with HCV annually, it is the highest reported rate in the literature. Previous reports on the prison setting have been case reports, focused on general prisoners or been unable to determine the location of the transmission. However, an earlier study of IDU prisoners in NSW had a similar rate of HCV transmission (28 per 100 person years) but with fewer incident cases ($n = 8$; [15]).

Some have suggested that the majority of HCV infections among IDUs occur outside prison [24, 25] and that HCV transmission in prison is uncommon [10–12]. The reason for the difference in HCV incidence is that those studies recruited prisoners without specific risk factors. Failure to select 'at risk' prisoners will result in a low incidence of HCV. Injecting drug use was the likely mode of transmission in this cohort, consistent with the selection of subject based on this risk behaviour.

In our study, incident HCV was significantly associated with previous imprisonment, current methadone treatment and more than 10 years education. The first two factors are indirect markers of the intensity of IDU. The association between self-reported IDU in prison and incident HCV was positive, but not statistically significant. It should be noted, however, that it is sometimes difficult to gather accurate behavioural data given that IDU in prison is a criminal offence potentially leading to prolongation of imprisonment. However, substantial efforts were made to minimise this influence and to reassure subjects that their responses were strictly confidential. The researchers were independent of the Department of Corrective Services. Nonetheless, fear of legal repercussions, lack of trust in authorities generally, social desirability bias or other factors may limit

the reliability of self-reported behavioural data. The association between incident infection and higher level of education is not easily explained but should be explored in future behavioural studies.

The association between methadone treatment and incident HCV was unexpected and indeed counter-intuitive. Nurses screened prison entrants for a history of risk behavior and referred inmates for methadone treatment. Approximately 1,000 of the 8,000 inmates in NSW were in methadone maintenance treatment at the time of the study. Optimally administered methadone maintenance treatment reduces injecting drug use [26, 27]. Accordingly it is reasonable to expect the incidence of HCV might also be reduced. However, MMT was only offered to those with opioid dependence and not occasional injectors [28]. MMT may serve as a surrogate marker of high risk behavior associated with a high risk of HCV infection. This hypothesis is supported by the observation that the risk behaviour profile was greater in the MMT group than in those not on methadone. Suboptimal provision of MMT to prisoners is ineffective in reducing injecting.

The findings reported here are of particular concern given that NSW prisons provide a range of HCV prevention strategies. New South Wales, site of the study, Queensland and Victoria account for over 50% of Australia's population including prisoners [29] and IDUs [30]. As these three states have a similar HCV prevalence, our results would be applicable to at least 50% of Australia.

A review of HCV strategies among IDUs found little observational data to support behavioural programs and only modest data to support MMT and distribution of sterile injecting equipment [2]. Consistent with these findings, none of the available strategies bleach, counseling or peer education reduced HCV incidence in this study. MMT has been linked with reduced HCV seroconversion in the community [26] and can reduce injecting risk behaviour in prison if dose and duration are adequate [27], but uptake was low at 15% in our study. One untried HCV prevention strategy in NSW prisons is needle and syringe exchange programs. There is evidence this strategy has reduced HCV incidence in the community [2] and therefore may reduce HCV in prison.

This study has nevertheless identified a high level of injecting and HCV incidence despite these strategies. Therefore, current prevention strategies have limited capacity to prevent HCV transmission in NSW prisons. Accordingly, trials of prison based needle syringe programs are strongly recommended. Cut down and extremely worn syringes confiscated in Australian prisons have tested positive for HCV [31]. Needle and syringe sharing is wide spread among inmates [32] although the source of syringes in prison is unknown. Prison based methadone maintenance programs should be expanded here [33] and abroad [34] to meet demand.

Other strategies to consider include the use of antiviral treatment which may become effective as a prevention strategy if undertaken on a sufficient scale to diminish the infected pool, and may become more feasible when shorter duration, combination treatments become widely available. Finally several HCV vaccines are under development, and although there are major challenges in the development pathway, and clinical trials in the prison environment pose unique ethical considerations, it has been argued that this population would be ideal early candidates [35]. The inability to prevent HCV during imprisonment provides evidence of the health risks of that environment and that the use of incarceration for less serious offences should be re-evaluated.

Acknowledgments All authors have contributed to the design, data analysis and write up of the paper. We have no conflict of interest. This work was supported by a Project Grant from the National Health and Medical Research Council of Australia (No. 222877) and by the University of New South Wales Hepatitis C Vaccine Initiative. The authors are independent of the funders. The study protocol was approved by the Human Research Ethics Committees of Justice Health, and the Department of Corrective Services, New South Wales, Australia.

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Durkin, Mary

From: Taylor, Kate
Sent: Wednesday, 4 November 2009 3:45 PM
To: Durkin, Mary
Subject: Merediths key points for social inclusion panel

Hi Mary,

I talked to Meredith and the key issues she would raise for the panel discussion are:
- positive issue has been Human rights Act and impact that has on disability portfolio
- negative issue is ongoing transport problems.

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Durkin, Mary
Sent: Friday, 22 January 2010 5:20 PM
To: Taylor, Kate
Subject: Meetnig with Amanda

Hi Kate

Tried to call you regarding meeting on the national registration issue. I will give you a bell on Monday.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
Human Rights Commission
P 6205 2222
F 6207 1034

Roy, Alasdair

From: Walls, Fiona on behalf of HUNTER
Sent: Tuesday, 3 August 2010 1:16 PM
To:
Cc: Roy, Alasdair
Subject: RE: Meeting with Meredith Hunter

My apologies Melanie has just informed me that the meeting is at 2pm not 4pm as I had stated originally.

Please let me know if you're available to attend the 2pm time. Apologies for the inconvenience.

Regards,

Fiona Walls

Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au

Durkin, Mary

From: Durkin, Mary
Sent: Wednesday, 28 September 2011 4:29 PM
To: Taylor, Kate
Subject: RE: cpsu - nsp

Thanks Kate
Just did an interview with Canberra Times.
Regards
Mary

From: Taylor, Kate
Sent: Wednesday, 28 September 2011 2:53 PM
To: Durkin, Mary
Cc: Kilpatrick, Amy
Subject: RE: cpsu - nsp

Also...

This is what Amanda will be putting out

Greens support Health Commissioner's stance on CPSU

ACT Greens Health, Corrections and IR spokesperson, Amanda Bresnan MLA, has today given her support to the decision by ACT Health Services Commissioner to leave the CPSU.

"It is important that union members feel they are having the views represented, and I can understand why the Health Services Commissioner has decided to leave the CPSU," Ms Bresnan said.

"This is a very strong stance to take and no doubt would have been a difficult decision to make. It demonstrates how many people feel about the importance of establishing a needle and syringe program at the AMC. I congratulate the Health Services Commissioner in making this statement.

"It's a strong stance that I agree with, because I think that the union has got it wrong on this important health issue.

"Just today the Australian Institute for Health and Welfare released a report showing that 92% of ACT inmates used drugs in the year prior to their imprisonment. We cannot ignore this issue.

"It's time for everyone to acknowledge the reality of the situation we are dealing with and listen to chorus of health professionals and organisations calling for a needle and syringe program to be established.

"There are different views amongst the various unions, as evidenced by the ANF where some of their members support a needle and syringe program and others don't, and those union views in support of a needle and syringe program need to be heard.

"The question we should be debating now is not whether or not a needle and syringe program should occur, but what type of needle and syringe program should be trialed in the AMC," Ms Bresnan said.

From: Taylor, Kate
Sent: Wednesday, 28 September 2011 2:52 PM
To: Durkin, Mary
Cc: Kilpatrick, Amy
Subject: RE: cpsu - nsp

Thanks Mary

FYI

- I think it will break tonight on radio rather than tomorrow on CTimes
- Bianca Hall said she was going after a front page of CTimes story

From: Durkin, Mary
Sent: Wednesday, 28 September 2011 12:41 PM
To: Taylor, Kate
Cc: Kilpatrick, Amy
Subject: RE: cpsu - nsp

Kate

I haven't specifically gone to the media as yet. I was hoping to get a sense of whether any support from CPSU members at this stage. But very happy for Amanda to put out a press release.

Regards

Mary

From: Kilpatrick, Amy
Sent: Wednesday, 28 September 2011 12:24 PM
To: Durkin, Mary
Subject: FW: cpsu - nsp

Views?

From: Taylor, Kate
Sent: Wednesday, 28 September 2011 11:30 AM
To: Kilpatrick, Amy
Subject: cpsu - nsp

Hi Amy

Amanda Bresnan is thinking of putting out a press release to support Mary's move from CPSU.

Its going to be in the media isn't it?

We just wanted to know if Mary would be ok with Amanda doing that.

Cheers

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip

T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Durkin, Mary

From: Durkin, Mary
Sent: Wednesday, 1 February 2012 3:48 PM
To: Taylor, Kate
Subject: RE: Marg Phelan - cycling midwife extraordinaire comes to town

Sorry Kate – we have our quarterly meeting of Statutory Office Holders on that lunchtime. But thanks for the invite and hope it all goes well.

Cheers
Mary

From: Taylor, Kate
Sent: Wednesday, 1 February 2012 2:16 PM
To: Taylor, Kate
Subject: Marg Phelan - cycling midwife extraordinaire comes to town

**Help us celebrate Marg Phelan, cycling midwife extraordinaire,
as she promotes women's right to access midwives**



Date: Friday 10 February 2012
Time: 12.30pm to 1.30pm
Place: Exhibition Room, ACT Legislative Assembly

Small lunch provided

Marg Phelan, a mother and midwife from the Northern Territory, has been cycling around Australia to spread the word that women have the right to choose where and with whom they give birth and to be properly supported in these choices.

For more information about the cause see www.gogirlaustralia.net.au

Hosted by Amanda Bresnan, ACT Greens MLA for Brindabella

Durkin, Mary

From: Durkin, Mary
Sent: Tuesday, 2 February 2010 10:10 AM
To: Taylor, Kate
Cc: Hingston, Matt
Subject: RE: Health Practitioner Regulation National Law (ACT) Bill 2009

Kate

I am quite happy for this to be passed on to PCO - they are quite aware of my views.
Thanks for checking with me.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner Human Rights Commission P 6205 2222 F 6207
1034

-----Original Message-----

From: Taylor, Kate
Sent: Tuesday, 2 February 2010 10:04 AM
To: Durkin, Mary
Subject: Health Practitioner Regulation National Law (ACT) Bill 2009

Hi Mary

Do you mind if we provide this copy of your written briefing about the Health Practitioner Regulation National Law (ACT) Bill 2009 to PCO (Mary Toohey) to help us in drafting amendments?

Cheers,

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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-----Original Message-----

From: Taylor, Kate
Sent: Tuesday, 2 February 2010 10:01 AM
To: Taylor, Kate
Subject: FW:

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

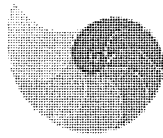
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-----Original Message-----

From: MLA Amanda Bresnan [<mailto:bresnan@parliament.act.gov.au>]
Sent: Tuesday, 2 February 2010 7:59 PM
To: BRESNAN
Subject:

This E-mail was sent from "LAB00L02P33" (Aficio MP C6000).

Scan Date: 02.02.2010 09:58:31 (+0100)
Queries to: MPC6000LAL1East



HEALTH SERVICES COMMISSIONER

ACT Human Rights Commission

Ms Katy Gallagher MLA
Minister for Health
ACT Legislative Assembly
GPO Box 1020
CANBERRA CITY ACT 2601

cc: Mr Simon Corbell MLA, Attorney General
Ms Amanda Bresnan, Greens ACT
Mr Jeremy Hansen, ACT Liberals
Dr Peggy Brown, Chief Executive, ACT Health

Dear Minister

As you are aware, I recently met with some members of the Legislative Assembly, and the Standing Committee on Health Community and Social Services, to discuss the implications for the ACT of the Health Practitioner Regulation National Law Bill. I have also held further discussions with ACT Health on issues around complaint management under the Bill.

During those discussions, I have been alerted to a number of concerns raised by the boards about the complaint handling scheme under the Bill. I would like to take this opportunity to address some of these issues.

The Commission currently has two distinct roles complementing the functions of boards. The Commission investigates complaints about health professionals in the ACT and oversees a small number of board processes.

I understand that some health profession boards would be keen to see the Commission's role of investigating complaints about health professionals removed. While I understand the boards' desire to have this role, the Commission (and its predecessor, the Community and Health Services Complaints Commission), was established against a background of reluctance by boards to 'investigate their own'. There was significant mistrust in the community that health profession boards adequately investigated matters relating to health professionals, and a perception that boards were biased in favour of their members. From the complaints that we receive this community perception remains.

For over 15 years the ACT has had an independent and impartial statutory body to investigate complaints. I believe it would be a retrograde step for the Assembly to heed calls to revert to a regime where boards were accountable only to themselves, and were shielded from external scrutiny.

I understand that some boards are of the view that the Commission's involvement will slow processes down. I do not accept this contention. The national regulation law proposes that boards will have 60 days to decide whether or not to deal with a complaint. I do not believe

this is acceptable for complainants or for service providers. All parties have a right to have matters dealt with expeditiously and I would anticipate that my discussions with boards will lead to more prompt handling of matters than envisaged in the national regime. I also intend to progress memorandums of understanding with boards to ensure a streamlined and efficient method of dealing with complaints. I do not seek to alter the system that has been operating in the ACT, whereby the organisation that receives a complaint will seek an initial response. If investigatory powers need to be invoked, however, it would be the Commission that would generally undertake such investigations.

The Commission has trained staff, experienced in conducting investigations. The ACT is different to other jurisdictions, in that we operate in the context of a Human Rights Act. Commission staff are fully aware of the obligations that this entails. Staff of the national boards (seven of which will not be located in Canberra), or investigators on the payroll of the boards, will not be sensitive to, or even aware of, human rights considerations when conducting investigations and making decisions.

I am aware of claims that the Commission does not undertake timely investigations. While the Commission may sometimes take longer than boards would take, the Commission is mindful of providing parties with natural justice. The lack of such a provision in the national regime was a point of concern raised by the Scrutiny of Bills Committee. The Commission is also concerned to ensure that claims are checked against the evidence. Boards are generally inclined to get a response from a provider and take matters no further. Further, the Commission takes a broader view than the boards in that we seek to resolve the matter for the complainant, as well as determine whether or not standards are met. If boards were to take responsibility for investigating all health professional complaints, consumers would not obtain redress. This redress would not be adequately maintained by having Boards refer select matters for conciliation. The Commission resolves many complaints through its consideration processes.

I also understand that the boards are keen to remove provisions that reflect the current situation whereby the Commissioner has a statutory right to appear at professional standards panel hearings, and which require boards to report back to the Commission on outcomes of board processes. These provisions have been a feature of our oversight regime for many years for good reason. They have ensured that the Commission is able to monitor that boards actually implement joint consideration decisions. The Commission has on occasions needed to remind boards that they have failed to take appropriate action to implement decisions. They also enable the Commission to ensure that panel processes are rigorous and consistent.

I do not believe these provisions are onerous on boards. For example, in the three years that I have been Commissioner, I have sought to attend only two professional standards panel hearings, one with the Medical Board and one with the Veterinarians Board (which will be exempt from the national registration regime). With respect to reporting back to the Commission on board processes, in the last annual reporting year there were:

- thirteen referrals to Professional Standards Panels (5 nurses, 6 medical practitioners, 1 dental technician/prosthetist and 1 psychologist); and

- one referral of a nurse to a Personal Assessment Panel, so that the Panel could formally determine whether the practitioner's health was affecting their ability to meet the required standard of practice.

As can be seen, the most onerous reporting impositions were on the Medical Board and Nursing and Midwifery Board which were required to send copies of reports, already produced as an outcome of panel proceedings, to the Commission. This amounted to each of those boards e-mailing copies of six reports over the 12 month reporting period.

There is a misconception that the Commission takes a disciplinary approach to matters whereas the boards seek to take an educative role in relation to failures of health professionals to comply with accepted standards of practice. Again, I would cite my own experience in the time that I have been Commissioner. Joint consideration discussions with the boards are designed to ensure that an appropriate course of action is decided in each case. The legislation provides that if agreement is not able to be reached, the strongest view will prevail. I can recall one occasion in three years where I have taken a stronger view than a board and insisted on 'disciplinary' action when a board was inclined not to take action. The consequent Professional Standards Panel eventually concurred with the Commission's view that the relevant health professional had contravened the required standard of practice. On all other occasions the Commission and the boards have agreed on an appropriate course of action following discussion. This has regularly resulted in the boards undertaking, sometimes jointly with the Commission, an educative discussion with the relevant health professional.

A further concern raised by some boards is that the Commission's staff are not clinicians and that this somehow prevents the Commission from adequately investigating matters. The Commission invariably seeks advice from the boards about clinical issues and, when necessary, sources peer reviews or expert opinions from outside the ACT so that there is no perception of bias, as can be the case in such a small jurisdiction. Recent amendments to the Human Rights Commission Act now enable the Commission to provide copies of all complaint to the boards on receipt. This gives the boards ample opportunity to provide clinical advice at any stage of the Commission's investigation process.

I understand that the boards believe the Commission is to be limited to investigating systemic and administrative matters and not matters related to the conduct of health professionals. This is not the case. The *Human Rights Commission Act 2005* specifically outlines the Commission's role to provide independent and impartial investigations of complaints about health professional standards. The Bill maintains this role for the Commission. Unfortunately, the drafters of the explanatory material relating to the Bill appear to have been unaware of the Human Rights Commission Act and have perpetuated the misunderstanding by stating that the Commission would only conduct investigations of systemic and administrative matters.

The Human Rights Commission Act provides that the Commission cannot be directed in the way that it conducts investigations and the Commission would not intend to relinquish its clear mandate under that Act to provide independent investigation of matters relating to standards of practice of health professionals. I believe that it would be appropriate to clarify the Commission's role in the legislation and in the explanatory statement, and thus avoid

the need for the Commission to assert its role on each occasion that it jointly considers a complaint with the boards.

I believe that it is essential to retain all elements of our current legislation if we are to continue to provide an effective independent and impartial 'watchdog' role. I would be happy to discuss any of these concerns with you.

Yours sincerely

[signed]

Mary Durkin
Health Services Commissioner

16 March 2010

Durkin, Mary

From: Durkin, Mary
Sent: Tuesday, 9 March 2010 4:19 PM
To: Taylor, Kate
Subject: RE: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Thanks Kate

Yes this is the report I was mentioning when I was noting to Amanda and you that we automatically provide natural justice in our processes, while this bill does not. I think it also raised some concerns about investigators' qualifications... another issue that is resolved by already having the Commission established. I have drawn the human rights bits to the Human Rights Commissioner's attention.

Cheers
Mary

From: Taylor, Kate
Sent: Tuesday, 9 March 2010 4:07 PM
To: Durkin, Mary
Subject: RE: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Thanks Mary,

We just had a helpful briefing from Peggy Brown and Ross O'Donoghue. We have also told the government about the amendment and they are going to have a look and get back to us.

That's good to hear about the MOUs.

There are a few issues picked up on by the Scrutiny of Bills Committee relating to human rights – not sure if you are interested. If you are see <http://www.parliament.act.gov.au/downloads/reports/7scrutiny18.pdf>. There are interesting points raised about right to legal representation before a tribunal and criminal history checks.

Cheers,

Kate

From: Durkin, Mary
Sent: Tuesday, 9 March 2010 2:59 PM
To: Taylor, Kate
Subject: RE: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Thanks Kate

As discussed, I think this amendment is quite neat and will remove the need for arguments between the commission and the boards, as would be required under the Bill. It will still result in the same outcome but will make the process much smoother.

I do not consider that making this amendment will change how things will operate – it will just provide less angst. In reality I would be looking to retain the status quo as much as possible. To this end all the health complaints commissioners around the country are meeting with the regulation authority in April to discuss MOUs between commissions and the national boards, to make things run as smoothly as possible. I would be envisaging an MOU that would retain the boards seeking an initial response to a complaint when they receive one, as they do now.

Section 150(3) of the Bill says we must attempt to reach agreement about how a complaint is to be dealt with and I would be looking to agree with the boards that they would send an initial 'please respond' as they do now and then we discuss the complaint further when they have the response. In this way we would not be taking over what they currently do but when it comes down to a decision that further investigation is required, we would be providing the independent investigations. There are many occasions when the initial response will simply resolve matters and no further investigation is required.

If the boards were tardy in seeking initial responses, however, I would be looking at taking things on from the start. The Bill provides for the boards to decide to do something with a complaint within 60 days. To my mind this is far too long and I would be hoping that I could convince the boards to work somewhat more quickly than that.

Happy to discuss if you have any queries.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Taylor, Kate
Sent: Tuesday, 2 March 2010 1:47 PM
To: Durkin, Mary
Subject: FW: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Hi Mary

Attached are the draft amendments that PCO have done up for us. I don't really get the sense that they it the target though – do you? Maybe we would be better off changing New Section 150 (4A) rather than adding a New Section 150 (4B).

<< **File: J2010-42-HlthPrcttnRgltnNtnlLw(ACT)Bill09-AssAm-AB-D01.pdf** >>

Cheers

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Hingston, Matt

From: Watchirs, Helen
Sent: Friday, 5 June 2009 1:16 PM
To: #JACS, Human Rights Commission
Subject: FW: Invitation to meet Professor Wangari Maathai

fyi

Regards,

Helen.

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at <http://www.hrc.act.gov.au>

From: Rattenbury, Shane
Sent: Friday, 5 June 2009 1:15 PM
Cc: Oakey, Helen
Subject: Invitation to meet Professor Wangari Maathai

Dear friends and colleagues,

It is my very great pleasure to invite you to meet renowned environmentalist, and Nobel Laureate, Professor Wangari Maathai, who will be in Canberra next Tuesday 9th June.

Professor Maathai is well known for her work starting the Green Belt Movement which supported rural women in Africa who were facing a lack of clean drinking water, shelter and balanced diets. She introduced the idea of planting trees in order to improve rural women's quality of life and at the same time conserve the environment.

She was awarded the Nobel Peace Prize in 2004 for her contribution to sustainable development, democracy and peace.

Professor Maathai is in Australia to promote her new book "The Challenge for Africa" and as part of her work as Goodwill Ambassador of the Congo Basic Forest Ecosystem. We would be delighted if you could join us to meet with her at the Legislative Assembly:

Tuesday 9th June, Exhibition Room, First Floor

12pm: Press Conference and Presentation

12.30-1.30pm: Reception with light refreshments

Please RSVP by 11am on Tuesday to Helen Oakey at helen.oakey@parliament.act.gov.au. My apologies for the very short notice, but we wanted to make the most of this last minute opportunity

I hope that you are able to join us.

Regards,

Shane Rattenbury, MLA

Shane Rattenbury MLA
Speaker, ACT Legislative Assembly

ACT Greens Spokesperson for Climate Change, Environment and Water, Energy, Attorney General, Police and
Emergency Services, and Tourism, Sport and Recreation

T: (02) 6205 0005

E: rattenbury@parliament.act.gov.au

Hingston, Matt

From: Durkin, Mary
Sent: Tuesday, 2 March 2010 2:57 PM
To: Taylor, Kate
Cc: Hingston, Matt
Subject: RE: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Hi Kate

Got meetings for the rest of the day. It looks quite an interesting approach at first glance but I really need to work through other bits of the legislation that interact with S 150. I will get back to you tomorrow.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner
ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au

From: Taylor, Kate
Sent: Tuesday, 2 March 2010 1:47 PM
To: Durkin, Mary
Subject: FW: Health Practitioner Regulation National Law (ACT) Bill-AssAm (version 1)

Hi Mary

Attached are the draft amendments that PCO have done up for us. I don't really get the sense that they it the target though – do you? Maybe we would be better off changing New Section 150 (4A) rather than adding a New Section 150 (4B).

<< File: J2010-42-HlthPrcttnrRgltnNtnlLw(ACT)Bill09-AssAm-AB-D01.pdf >>

Cheers

Kate Taylor

Senior Advisor

OFFICE OF AMANDA BRESNAN MLA, ACT Greens Parliamentary Whip
T: 02 6205 0551 | F: 02 6205 0498 | M: 0400 401 691

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Hingston, Matt

From: Durkin, Mary
Sent: Monday, 15 March 2010 4:22 PM
To: Hingston, Matt
Subject: FW: National Registration

-----Original Message-----

From: Taylor, Kate
Sent: Monday, 15 March 2010 4:18 PM
To: Durkin, Mary
Subject: RE: National Registration

Hi Mary

Govt won't agree to our amendments but the Greens have decided Amanda will move them, they will get voted down, but the Greens will still agree to the Bill passing tomorrow.

Your letter definitely made for a good read.

Cheers,

Kate

-----Original Message-----

From: Durkin, Mary
Sent: Monday, 15 March 2010 2:52 PM
To: Taylor, Kate
Subject: FW: National Registration

Hi Kate

Please find attached a letter to the Minister (and Amanda). Will give you a bell re this.

Regards

Mary

-----Original Message-----

From: Durkin, Mary
Sent: Monday, 15 March 2010 2:33 PM
To: Drake, Angie
Subject: National Registration

Dear Angie

Please find letter attached to the Minister in relation to tomorrow's Bill. Is rather long I know, but really aimed at educating some others, more so than the Minister.

Please let me know if any queries.

Regards

Mary Durkin
Health Services Commissioner
Disability and Community Services Commissioner ACT Human Rights Commission

PH: 6205 2222 FAX: 6207 1034
12 Moore Street, Canberra City
GPO Box 158, Canberra ACT 2601

www.hrc.act.gov.au



ACT HUMAN RIGHTS COMMISSION

Australian Capital Territory

Ms Joy Burch MLA
Minister for Community Services
ACT Legislative Assembly
GPO Box 1020 Canberra ACT 2601

CC: Mr Simon Corbell MLA, Attorney General
Ms Vicki Dunne MLA, Opposition spokesperson
Ms Meredith Hunter MLA, The Greens spokesperson
Mr Martin Hehir, Director General, Community Services Directorate

Dear Ms Burch

Government Response to 'The ACT Youth Justice System 2011: A Report to the Legislative Assembly by the ACT Human Rights Commission'

The Commission welcomes the Government's Response to 'the ACT Youth Justice System 2011, a Report to the Legislative Assembly by the ACT Human Rights Commission' (the Report). We are pleased to note that the Government has 'agreed' with 105 of the recommendations of the Report, 'agreed in-principle' with 84 of the recommendations and 'noted' 29 of the recommendations. Of the 224 recommendations of the Report the Government has advised that there are only 6 recommendations which are 'not agreed'.

We commend the establishment of a Youth Justice Implementation Taskforce (the Taskforce) to take forward the recommendations of the Report and the development of a Blueprint for Youth Justice as the key platform of the Government's Response to the Report, which will provide the strategic direction for the development of the youth justice system over the next 5-10 years.

The Commission notes the view of the Taskforce *"that reform needs to occur in an integrated fashion across the whole youth justice system in order to achieve better outcomes for young people"* and that *"there needs to be a stronger focus on diverting young people from the youth justice system and engaging them with early intervention and prevention pathways."* This is welcome and consistent with the approach of the Report. As you know, while the Report reflects the Terms of Reference of the Inquiries requested by the Legislative Assembly, including a Human Rights Audit of Bimberi Youth Justice Centre, there is considerable attention given in the Report to the broader youth justice system, with chapters devoted to embedding youth justice in the community, the vision for the youth justice system and to prevention and diversion.

While we appreciate the positive response of Government to the recommendations of the Report, from our initial review of the Government Response, the Commission does have some concerns regarding the approach of the Taskforce to the implementation of some of the recommendations.

First, in some cases the Taskforce has accepted the intent of particular recommendations, but has determined that there is alternative way of achieving that intent. While this may be appropriate in certain circumstances, there are some situations where the Government's comments regarding implementation do not appear to achieve the intent of the recommendation, and it may be misleading to suggest that the recommendation has been 'agreed' or 'agreed in principle'.

For example, in 12.14 the Commission recommends that the Education and Training Directorate inform the Public Advocate and Official Visitor if a young person at Bimberi is denied permission to attend school for two consecutive days in a row. This recommendation is intended to ensure transparency of management decisions that impact on young people's right to education. The Government Response is 'agreement in principle'; but that the existing practice of notification of segregation orders will continue unchanged. The current accountability framework is not adequate, as when some young people are prevented from attending school, they are not placed on a segregation order. In our view this response would be more accurately characterised as 'noted' or 'not agreed' as there is no suggestion for an alternative means of achieving the intent of the recommendation.

A second example occurs in relation to 4.2, in which the Commission recommends that the ACT Government work with the Commission and other stakeholders to develop a model of Child Impact Statements. The Government Response is 'agreement in principle'; but that the 'best interests principle' and the *Human Rights Act 2004* already provide an established method for considering the impact of law, policies and services on children and young people. In our view this response would be more accurately characterised as 'noted' or 'not agreed'.

A third example occurs in relation to 5.23, in which the Commission recommends that CSD assertively offer counselling and support to Bimberi staff, in addition to their entitlements under the Employee Assistance Program (EAP). The Government Response is 'agreement in principle'; but that adequate services are available under EAP, and there will be no additional effort to promote the availability of counselling support services to staff. In our view this response would be more accurately characterised as 'noted' or 'not agreed'.

These are just three examples of responses about which we have some questions or concerns, and we will provide further comments in relation to the Government Response when we have had an opportunity to consider the document in more detail.

The implementation of the recommendations will take some time, and in relation to many recommendations, implementation is dependent on the outcome of several ongoing activities:

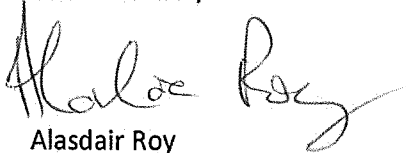
- Blueprint for Youth Justice in the ACT,
- development of an 'Integrated Management System' (IMS) at Bimberi, and
- review of all policies and procedures at Bimberi as part of the IMS project.

The Commission intends to remain engaged with the Taskforce and CSD for the duration of the implementation process, to provide any information or clarification that may be needed, and to monitor the outcomes of the implementation. However, to do so will require resources beyond our current very limited capacity. Therefore we will write to Mr Martin Hehir, Director General of CSD, to seek discussion about the possibility of CSD contributing funding to allow the Commission to monitor the implementation process.

As you know, in conducting the joint Review of the ACT youth justice system the Commission heard from a large number of stakeholders including young people, parents, staff, community organisations and members of the broader community. In our view it is critical that these stakeholders continue to be engaged in the development of a Blueprint for Youth Justice and have ongoing opportunities to contribute to the implementation of the recommendations of the Report. We are not aware of any planned consultation mechanisms, and would welcome your views and opinions on how such consultation might be undertaken.

In 15.3 of the Report we recommend that the Commission convene an Annual Youth Justice Forum, in partnership with other stakeholders in the youth justice system. The Commission intends to hold an inaugural Youth Justice Forum on 23 November 2011 at the Aboriginal Cultural Centre at Yarramundi Reach. We consider that this forum would be a valuable opportunity for the Taskforce to engage with stakeholders and to provide information about the Government Response and the Blueprint for Youth Justice. We would welcome the opportunity to discuss with you how we could best involve the Taskforce in this Forum.

Yours sincerely

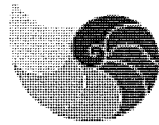


Alasdair Roy
Children & Young People Commissioner



Dr Helen Watchirs
Human Rights & Discrimination Commissioner

26 October 2011



HUMAN RIGHTS & DISCRIMINATION COMMISSIONER

ACT Human Rights Commission

Richard Griggs
Adviser to Shane Rattenbury MLA
GPO Box 1020
Canberra ACT 2601

Dear Mr Griggs

Terrorism (Extraordinary Temporary Powers) Act 2006

I refer to your email enquiry of 26 May 2011 concerning the above legislation (**TETP Act**), and in particular those aspects that could be improved. Whilst I am unable to provide an official document that sets these aspects out, I can confirm that I share concerns raised by others, including ANU academics, regarding some areas of the TETP Act, and would support the following improvements to the legislation:

- limiting the monitoring of communication with lawyers (s.56) only where there is a *connection* with a terrorist act (see s.16) – UK legislation is narrower than ACT's;
- further clarifying in s.96 how evidence obtained by torture is not admissible (burden and standard of proof);
- requiring police to explain (particularly to young people and/or people from a non English speaking background) the reasons for asking for information or subjecting the person to Part 3 'Special Powers' searches, and giving proof of police status, particularly when in plain clothes; and
- amending s.31 so that police have power to release the person where satisfied that the grounds on which the order was made do not exist, rather than continue to hold them whilst seeking to have the order set aside.

I suggest that the next review of the TETP Act should be by an independent body. It is questionable whether all the provisions of the TETP continue to be required since the Act has not been used, and the police have extended powers in respect of terrorism offences under Part 1C of the Federal *Crimes Act 1914*, which applies in the ACT.

Lord Macdonald's 2011 independent *Review of Counter-Terrorism and Security Powers* found that some aspects of the UK regime were 'disproportionate, unnecessary and objectionable' and some State powers should be rolled back. The regular scrutiny of the operation and effectiveness of anti-terrorism legislation is necessary to ensure that limitations on rights are demonstrably justified and proportionate to the security objectives it seeks to achieve.



**HUMAN RIGHTS &
DISCRIMINATION COMMISSIONER**

ACT Human Rights Commission

Please contact Ms Helen Sexton at the Commission if you require clarification of any of the above.

Yours sincerely

Helen Watchirs

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
21 June 2011

Roy, Alasdair

From: Walls, Fiona on behalf of HUNTER
Sent: Friday, 17 September 2010 2:59 PM
Subject: Invitation to "Young People Transitioning Out of Care in the ACT: A Discussion Forum"
Attachments: Transitioning Out of Care Forum Invitation.pdf

Hi,

Meredith Hunter MLA is delighted to invite you to a discussion forum about *Young People Transitioning Out of Care in the ACT* on Tuesday 12 October 2010 at 11.30am at the ACT Legislative Assembly.

Details about the forum are attached. Please feel free to circulate this invitation amongst your networks.

If you have any questions about the forum, or to RSVP, please contact our office on 02 6205 0106.

Hope to see you there.

Regards,

Fiona Walls

Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au

Meredith Hunter

ACT Greens MLA

***Young People Transitioning Out of
Care in the ACT:
A Discussion Forum***

The forum will consider the ACT Greens discussion paper
*“Strengthening our Support of Young People Transitioning
Out of Care: A New Framework”*

When: 12 October 2010 11.30am – 1.30pm

Light lunch provided

Where: Reception Room, ACT Legislative Assembly, Civic

Speakers will include:

- * Sue Mannion - Foster Care Association ACT
- * Dr Justin Barker – Social Researcher and Anthropologist
- * Annette Kelly-Egerton - Barnardos
- * Marion Le - Grandparents and Kinship Carers ACT

To receive a copy of the paper and RSVP please contact –

Tel: 02 6205 0106

Email: hunter@parliament.act.gov.au

by COB Thursday 7 October 2010.

Costello, Sean

From: Bennett, Andrew on behalf of Human Rights
Sent: Thursday, 26 May 2011 3:00 PM
To: Watchirs, Helen
Cc: Kilpatrick, Amy; Costello, Sean; McKinnon, Gabrielle
Subject: FW: Terrorism (Extraordinary Temporary) Powers Act 2006 (ACT)
Attachments: 9 Feb Canberra Times.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Hi Helen, please see email below from the Human Rights Inbox.

Thanks
Andrew

From: Griggs, Richard
Sent: Thursday, 26 May 2011 2:37 PM
To: Human Rights
Subject: Terrorism (Extraordinary Temporary) Powers Act 2006 (ACT)

Dear Human Rights Commission

The 5 year sunset clause for the Terrorism (*Extraordinary Temporary*) Powers Act 2006 (ACT) is activated this year and the ACT Government have indicated their intent to roll the Act over for another five years.

The Government will need to introduce and pass an amendment Bill before November this year and we are doing some work to prepare for that.

We were interested to see the comments in the Canberra Times on 9th February (attached) that the Human Rights Commissioner thought there were aspects of the initial Act which could be improved.

Is there any public document the Commission has prepared that sets these aspects out? If not, are you able to provide any indication to our office of those aspect?

Please email or call me to clarify anything raised above.

Regards

Richard

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly

ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

TEL: 02 6205 2381 | FAX: 02 6205 0007 | MOB: 0438 252 387

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Call for review of terror laws

By Ewa Kretowicz
City Reporter

Canberra Times
9 Feb 2011

The ACT Greens are urging the Government to review the ACT's terror laws before it moves to extend them for another five years.

The laws, which were passed in response to the 2005 London terrorist bombings, will automatically cease in November 2011 when a five-year sunset clause comes into effect. But the Government has announced plans to extend them for another five years.

Greens spokesperson Shane Rattenbury said a public human rights review of legislation that allowed for police to detain someone without charge and to prevent them from contacting family and friends while locked up was necessary.

Attorney-General Simon Corbell was unavailable for comment but in a statement said he was considering the request.

An ACT Government review of the laws released last year found they had never been used but said the purpose of the legislation remain current.

The review concluded there was evidence of terrorist activity to support the continuation of the laws beyond November 2011.

But in a letter to Mr Corbell dated February 4, Mr Rattenbury said the legislation

limited fundamental rights like freedom of movement and freedom from arbitrary detention.

"We now have eight to nine months until the laws expire and we hold the view that the laws should have a full human right assessment before they roll over," Mr Rattenbury said.

"We don't want to simply see them become a part of the norm - they were meant to be temporary powers."

Mr Rattenbury said in Britain some terrorism laws would be wound back after a review found they were "neither proportionate nor necessary".

"It makes it all the more important to look here, in the ACT, at whether we still need these measures or whether there are less intrusive ways to fulfil the security requirements that we have," he said.

ACT Human Rights Commissioner Helen Watchirs supported the idea of an independent and public human rights review.

"I would be happy to review the laws if I was properly resourced," Dr Watchirs said. "The benefit of sunset clauses is that there is automatically a review."

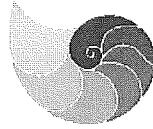
Dr Watchirs said there were aspects of the initial Act which could be improved.

The extended powers granted under the legislation had not been used in the ACT at the time of the government review.

"Just because there were no incidents under the laws does not mean they were too strong or weak," Dr Watchirs said.



RIGHTS: Greens spokesperson Shane Rattenbury.



**ACT HUMAN RIGHTS
COMMISSION**
Australian Capital Territory

Ms Meredith Hunter MLA
ACT Greens Parliamentary Convenor
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Ms Hunter

Review of Bimberi Youth Justice Centre

As you know, on 8 December 2010, the Legislative Assembly passed a motion noting a number of issues of concern at the ACT's Bimberi Youth Justice Centre, and in the broader youth justice system. The motion called for the Children and Young People Commissioner to undertake an inquiry into these concerns, with a corresponding Human Rights Audit by the Human Rights and Discrimination Commissioner.

The Commission is required to provide these Reports by 30 June 2011. We have commenced this work, and are writing to seek input into our Inquiry and Audit.

If it would assist, we are available to discuss the Review in person with Cross Bench members. We note that we have already agreed to meet with you on 22 February about the Review. We would be happy to discuss the Review with other Cross Bench members then. Alternatively, if you would like to organise any additional briefings, please contact us on (02) 6205 2890. For your information, we have also extended this offer to Government and Opposition members of the Legislative Assembly, through the Chief Minister and Leader of the Opposition respectively.

We would also be happy to accept any written submission you may wish to make to the Inquiry and/or Audit. Written submissions can be addressed to:

Bimberi Review Team
ACT Human Rights Commission
GPO Box 158
Canberra ACT 2601
Bimberi.Review@act.gov.au

Members of the public may contact your office to raise issues related to Bimberi and the youth justice system. We would be grateful if you could also inform these constituents of the Review so that we can also consider their concerns.

Please do not hesitate to contact us if you wish to discuss this matter further.

Yours sincerely

Alasdair Roy
Children & Young People Commissioner

Dr Helen Watchirs
Human Rights & Discrimination Commissioner

3 February 2011

Costello, Sean

Subject: FW: Review of the Human Rights Act

From: Walls, Fiona
Sent: Monday, 10 August 2009 1:22 PM
To: Human Rights
Cc: Quade, Brian; Griggs, Richard
Subject: Review of the Human Rights Act

Dear Commissioner,

I am writing on behalf of Meredith Hunter MLA seeking your assistance with a question about the ACT Human Rights Act.

The Act contains a section which states "The Attorney-General must review the operation of this Act and present a report of the review to the Legislative Assembly not later than 1 July 2009."

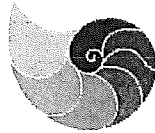
Meredith has been advised that this review has not occurred. Could you please advise if this is the case?

Please feel free to give me a call if you'd like to discuss this further.

Thank you for your time.

Regards,

Fiona Walls
Office of Meredith Hunter MLA
ACT Greens Parliamentary Convenor
Member for Ginninderra
Phone: (02) 6205 0106
Fax: (02) 6205 0418
Email: fiona.walls@parliament.act.gov.au



HUMAN RIGHTS COMMISSION

Disability & Community Services Commissioner
Children & Young People Commissioner

Meredith Hunter
ACT Legislative Assembly
GPO Box 1020
Canberra ACT 2601

COPY

Dear Ms Hunter

Meredith

I am writing to extend my congratulations to you on receiving the *Lifetime Achievement Award* at The Yogies award ceremony.

Your work during your time as Director of the Youth Coalition of the ACT has clear importance and value to the Canberra community.

There is much excellent work being done in the local youth sector, and it is pleasing to see public recognition of your contribution.

Yours sincerely

Helen Watchirs

Helen Watchirs
Acting Children & Young People Commissioner

24 December 2008

From: Griggs, Richard
Sent: Tuesday, 23 March 2010 12:18 PM
To: Watchirs, Helen
Subject: RE: Bill

Helen

Attached is the letter from the AG that refers to case law that supports the reasonable suspicion threshold.

Please call or email with any comments.

regards

Richard

Richard Griggs

Adviser to Shane Rattenbury MLA, Speaker of the ACT Legislative Assembly
ACT Greens Spokesperson for Attorney General, Environment, Climate Change and Water, Energy, Police and Emergency Services, and Tourism, Sport and Recreation.

TEL: 02 6205 2381 | FAX: 02 6205 0007 | MOB: 0438 252 387

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From: Watchirs, Helen
Sent: Tuesday, 23 March 2010 11:57 AM
To: Griggs, Richard
Subject: Bill

Dear Richard,

I thought that you might be interested in this article that takes a different approach than Scrutiny Committee to relevance of sniffer dogs, which is much less intrusive (and not covert), to surveillance/search issues – Civil Liberties have taken a similar approach to mine

[http://osgoode.yorku.ca/osgmedia.nsf/0/E149EE7DB8F3C80C8525764300649092/\\$FILE/Sniffing%20Out%20the%20Ancillary%20Powers%20Implications%20of%20the%20Dog%20Sniff%20Cases.pdf](http://osgoode.yorku.ca/osgmedia.nsf/0/E149EE7DB8F3C80C8525764300649092/$FILE/Sniffing%20Out%20the%20Ancillary%20Powers%20Implications%20of%20the%20Dog%20Sniff%20Cases.pdf)

Regards,

Helen.

Dr Helen Watchirs
ACT Human Rights and Discrimination Commissioner
Level 4, 12 Moore Street
Canberra City ACT 2601

Tel (02) 6205 2222
Fax (02) 6207 1034

The ACT Human Rights Commission releases a quarterly newsletter, Humanity - the latest version is at www.hrc.act.gov.au



Simon Corbell MLA

ATTORNEY GENERAL

MINISTER FOR THE ENVIRONMENT, CLIMATE CHANGE AND WATER

MINISTER FOR ENERGY

MINISTER FOR POLICE AND EMERGENCY SERVICES

MEMBER FOR MOLONGLO

Mr Shane Rattenbury MLA
ACT Greens
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Dear Mr Rattenbury *Shane*

Thank you for your letter of 19 March 2010 seeking further advice with respect to the *Crimes (Surveillance Devices) Bill 2010* (the Bill).

Firstly, you requested further information on the threshold test of what a judge must be satisfied of before issuing a surveillance device. As I indicated in my response to the interim comments on the Bill in Scrutiny Report (Number 20), the European Court of Human Rights (ECHR) has determined that covert surveillance by law enforcement agencies for criminal investigation is an acceptable interference with the right to privacy provided that legal safeguards are in place. The Explanatory Statement to the Bill sets out detailed commentary on this.

The Scrutiny Committee did not agree with the position put by the Human Rights Commissioner with respect to the threshold at which an officer may apply for and a judge or magistrate may issue a surveillance device warrant.

I disagree that the threshold of 'suspects or believes on reasonable grounds', that is drawn from the model Bill, prima facie is an impermissible interference with the right to privacy (*Human Rights Act 2004*, section 12).

There is jurisprudence that supports the threshold of 'reasonable suspicion'.

The notion of arrest on the basis of reasonable suspicion is contemplated by Article 5 of the European Convention on Human Rights:

1. Everyone has the right to liberty and security of person.

No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: . . .

(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; . . .

ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601

Phone (02) 6205 0000 Fax (02) 6205 0535 Email corbell@act.gov.au

In *Fox, Campbell and Hartley v United Kingdom* (1990) 13 EHRR 157, the Court concluded that a power to arrest required a reasonable suspicion that could be objectively informed by some facts or information capable of satisfying a court that the arrested person was reasonably suspected of committing the offence.

This view was re-iterated in *Murray v United Kingdom* (1994) 13 EHRR 193, and also by *O'Hara v United Kingdom* (2002) 34 EHRR 32:

The Court emphasises that the “reasonableness” of the suspicion on which an arrest must be based forms an essential part of the safeguard against arbitrary arrest and detention laid down in Article 5 § 1 (c) of the Convention. This requires the existence of some facts or information which would satisfy an objective observer that the person concerned may have committed the offence, though what may be regarded as reasonable will depend on all the circumstances of the case. (At paragraph 34)

The Court in *O'Hara* also noted that the threshold of reasonable suspicion was not to the extent of evidence that would satisfy a charge:

It may also be observed that the standard imposed by Article 5 § 1 (c) does not presuppose that the police have sufficient evidence to bring charges at the time of arrest. The object of questioning during detention under sub-paragraph (c) of Article 5 § 1 is to further the criminal investigation by way of confirming or dispelling the concrete suspicion grounding the arrest. Thus facts which raise a suspicion need not be of the same level as those necessary to justify a conviction, or even the bringing of a charge which comes at the next stage of the process of criminal investigation (see *Brogan and Others v. the United Kingdom*, judgment of 29 November 1988, Series A no. 145-B, p. 29, § 53, and *Murray v. the United Kingdom*, judgment of 28 October 1994, Series A no. 300-A, p. 27, § 55). (At paragraph 36)

The police powers of arrest without warrant in the *Crimes Act 1900*, section 212 sets a similar threshold of ‘suspect on reasonable grounds’. This provision has not been found to be incompatible with the human rights jurisprudence.

Although reasonable belief may be the optimum threshold from the perspective of the Human Rights Commissioner, reasonable suspicion is compatible. It is the reasonableness of the belief or suspicion that is, in my view, the vital component for compatibility.

I do however accept that the question of thresholds for the exercise of powers by law enforcement and judicial officers warrants ongoing consideration. I understand that officers from the ACT Human Rights Commission have been assisting in the preparation of a discussion paper on these issues in conjunction with other key criminal justice system stakeholders as part of the current review of police criminal investigative powers. That discussion paper will be released in the coming weeks. In this respect, I believe that it is better to have a discussion on this threshold question in the broader context of police powers, rather than revisiting this question in isolation.

Turning now to the actual provisions, there are 2 thresholds which must be met in order to obtain a surveillance device warrant. Firstly, under clause 11 of the Bill, a law enforcement officer must satisfy a minimum threshold of suspicion on reasonable grounds that the matters in clause 11(1)(a) – (c) are satisfied. If the law enforcement officer does not meet this minimum threshold then an application cannot be made to a judicial officer.

If the minimum threshold is met, the officer proceeds to make an application to the relevant judicial officer under the provisions of clause 13. A judicial officer may issue a surveillance device warrant if he or she is satisfied of the matters set out in clause 13(1)(a) – (c). This includes that the judicial

officer is satisfied that there are reasonable grounds for the suspicion or belief founding the application. It is discretionary and the judicial officer is not required to issue the warrant, even if the matters set are in the clause are met.

Subclause (2) sets out a number of matters that the judicial officer must have regard to in deciding whether to issue the warrant. These include the:

- nature and gravity of the alleged offence in relation to which the warrant is sought;
- extent to which the privacy of any person is likely to be affected;
- existence of any alternative means of obtaining the evidence of information sought to be obtained and the extent to which those means may assist or prejudice the investigation; and
- evidentiary or intelligence value of any information sought to be obtained.

Further, under clause 14 there are a number of matters that must be contained in any warrant issued. These include any conditions that the judicial officer has seen fit to include subject to which premises may be entered, or a surveillance device may be used, under the warrant.

On the question of emergency authorisations, I note that you accept these will be necessary from time to time. The appropriateness or otherwise of powers included in Part 3 Emergency Authorisations of the Bill as well as in the model bill was the subject of detailed consideration by the Joint Working Group on National Investigative Powers November 2003 Report.¹ The Joint Working Group concluded that 'there are limited circumstances when it may be impracticable for law enforcement agencies to apply for a warrant, even by telephone'².

The type of situations where these powers are likely to be used include a siege situation, a terrorist incident, an act of deprivation of liberty in which a victim's life may be in danger, or an act of extortion involving a threat of imminent injury.

They will only be available in very limited circumstances. Clause 25 provides for the very rare circumstances in which a law enforcement officer may apply to the Chief Police Officer for an emergency authorisation for the use of a surveillance device. The threshold issue is again twofold. Firstly, the officer must be suspect or believe on reasonable grounds the things referred to in clause 25(1) (a) – (d). These include a imminent threat of serious violence to a person or substantial damage to property exists, that the use of the surveillance device is immediately necessary for the purpose of dealing with that threat; that the circumstances are so serious and the matter is of such urgency that the use of the device is warranted and that it is not practicable in the circumstances to apply for a surveillance device warrant. The Chief Police Officer would then need to be satisfied that there are reasonable grounds for the suspicion or belief founding the application before granting an emergency authorisation.

In your letter you indicated that you supported the proposal by Civil Liberties Australia that on-call duty magistrates be utilised. In fact, this is precisely what the Bill anticipates if an after hours judicial officer is available (bearing in mind that most warrants can only be issued by Supreme Court judges, including in the case of the ACT Federal Court judges who hold dual commission), then a remote (e.g. telephone) application should be made to that judicial officer. It is only envisaged that the "not practicable" grounds will be made out only if there is no judicial officer available by telephone to grant the warrant. As the court arranges for a judge to be 'rostered on' for after hours work of this type at all times, these circumstances are likely to be very rare.

¹ *Cross-border investigative powers for law enforcement Report* - November 2003, Members of the Joint Working Group as an initiative of the Leaders Summit on Terrorism and Multijurisdictional Crime. Available at URL: http://www.ag.gov.au/www/agd/agd.nsf/Page/Publications_Cross-borderinvestigativepowersforlawenforcementReport-November2003

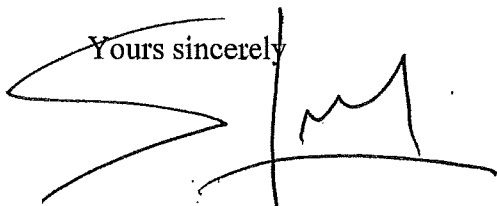
² *Ibid.*, p 435.

In any event, even if an emergency authorisation is granted, the Bill provides for judicial review and oversight through the requirements of clause 28 for a judicial officer to approve the emergency authorisation. That approval application must take place within 2 working days after the emergency authorisation was granted. Further, regardless of whether the judicial officer gives approval for the emergency authorisation, he or she is empowered under clause 29(5) to order that any information obtained from or relating to the exercise of powers under the emergency authorisation or any record of that information be dealt with in the way specified in the order. This would empower the judge to order the destruction of the material if that were appropriate.

Finally, I consider it is appropriate for the Territory to be reluctant to deviate from the model bill in the manner proposed. As you are no doubt aware, for a cross-border scheme to effectively operate, the legislation of other jurisdictions must be found to correspond. To deviate from the model bill in the fashion proposed would leave the Territory in the position of having to justify that our provisions continue to correspond. The very limited circumstances in which the emergency authorisation provisions operate, together with the safeguards requiring ratification by a judicial officer are, in my view, more than sufficient.

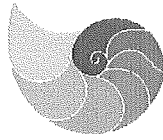
I trust this information will provide sufficient clarification for your purpose. Should you wish to discuss any aspect of the Bill further please let me know and I can make arrangements for officers from my Department to brief you further.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Simon Corbell', written over a vertical line that separates the signature from the typed name below.

Simon Corbell MLA
Attorney General

22.3.10



DISABILITY & COMMUNITY SERVICES COMMISSIONER

ACT Human Rights Commission

Chair
Standing Committee on Education, Training and Youth Affairs
Legislative Assembly

Dear Ms Bresnan

Thank you for the opportunity to make a submission to the Inquiry into the Educational Achievement Gap in the ACT.

It would be helpful if any consideration of gaps in educational achievement in the ACT included outcomes for students with disability, as well as students from different socio-economic backgrounds. While many students with disability are also under a socio-economic disadvantage, a clear measure of students with a disability as against the student population as a whole would clarify the extent of the gap in educational outcomes in relation to what is arguably the biggest minority group in the ACT. If disability were considered in relation to other contributors to educational outcomes, any multiplier affect could also be assessed.

While the government is undertaking a review into special education (the Shaddock Review), when considering educational outcomes across the Territory, disability should be considered as a factor that may have just as significant an impact as socio-economic status, gender or status as an Aboriginal or Torres Strait Islander person.

Yours sincerely

Julie Field
Disability & Community Services Commissioner
23 September 2009



HUMAN RIGHTS
COMMISSION

COPY

Chairperson
Standing Committee on Planning,
Public Works and Territory and Municipal Services
ACT Legislative Assembly
GPO Box 1020
ACT Canberra 2600

Cc Speaker, Mr Shane Rattenbury MLA

Dear Ms Porter,

Inquiry into the Crimes (Bill Posting) Amendment Bill 2008

Thank you for the opportunity to comment on the Crimes (Bill Posting) Amendment Bill 2008 (the Bill). The Human Rights Commission (the Commission) provided a submission to the Standing Committee on Planning, Public Works and Territory and Municipal Services (the Committee) earlier this month.

We are writing again to the Committee, to provide clarifying information following recent comments made in the ACT Legislative Assembly by Mr Alistair Coe, MLA, and by Ms Caroline Le Couteur MLA.

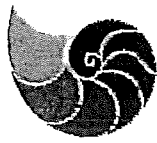
Mr Coe and Ms Le Couteur commented that the submission from the ACT Human Rights Commission was received by the Committee 'late in the piece',¹ and on 'the day that we were finalising the committee's report'.² They expressed concern that therefore the submission could not be given full consideration by the Committee.

The Commission first became aware of the Inquiry on Thursday 30 July 2009, when a staff member of the Commission surveyed the Legislative Assembly website. The Commission did not receive any notification of the work of the Committee on this issue.

Staff from the Commission sent an email to the Committee Secretary on 30 July 2009, indicating our interest in the issue, and offering to appear before the Committee. The

¹ Australian Capital Territory, *Parliamentary Debates*, ACT Legislative Assembly, 18 August 2009 (Mr Alistair Coe MLA)

² Australian Capital Territory, *Parliamentary Debates*, ACT Legislative Assembly, 25 August 2009 (Ms Caroline Le Couteur MLA)



HUMAN RIGHTS & DISCRIMINATION COMMISSIONER

ACT Human Rights Commission

Mr Shane Rattenbury MLA
ACT Greens
ACT Legislative Assembly
London Circuit
Canberra ACT 2601

cc: Mr Simon Corbell, ACT Attorney-General
[REDACTED]

Dear Mr Rattenbury,

Gender Diversity law reform

I refer to your letter of 29 October 2009 calling for the ACT Human Rights and Discrimination Commissioner to undertake an inquiry into human rights and discrimination issues faced by the ACT sex and gender diverse community.

I strongly support the call for greater protection and promotion of the human rights of transgender and intersex members of the ACT community. In particular, in my view there is a need for urgent action to implement the recommendations of the Report of the Australian Human Rights Commission (AHRC), *Sex Files: the legal recognition of sex in documents and government records* to respect the human rights of the sex and gender diverse community. On 4 May 2009 I wrote to the Attorney-General seeking a commitment to implementing these important recommendations in the ACT.

While I do not presently have the resources to conduct a full inquiry into these issues, I propose to provide a detailed human rights advice to the Attorney-General under s. 27(2)(b) of the *Human Rights Commission Act 2005* regarding Part 4 of the *Births Deaths and Marriages Registration Act 1997*, and options for law reform to ensure consistency with international human rights standards. I undertake to provide this advice in February 2010.

I note that a further area for reform relates to the adequacy of the provisions of the *Discrimination Act 1991* for transgender and/or intersex people, and for all people on the basis of gender presentation and expression. Under the Human Rights Commission Legislation Amendment Bill introduced into the Legislative Assembly today, the ground of unlawful discrimination in s.7(1)(c) of 'transsexuality' would be changed to 'gender identity,' defined to include the identification by an intersex person as being of a particular sex.

This reform will go some way towards remedying the inadequacies in the *Discrimination Act*, although I consider that further reform is still required, and will continue to work towards this.

The contact officers for this matter are Ms Gabrielle McKinnon (Wed-Fri) and Mr Sean Costello.

Yours sincerely

A handwritten signature in cursive script that reads "Helen Watchirs".

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
10 December 2009



HUMAN RIGHTS & DISCRIMINATION COMMISSIONER

ACT Human Rights Commission

Mr Simon Corbell
Attorney-General
ACT Legislative Assembly
London Circuit
Canberra ACT 2601

cc: Mr Shane Rattenbury MLA
[REDACTED]

Dear Mr Corbell,

Gender Diversity law reform

I refer to my letter of 4 May 2009, in which I sought to bring to your attention my concerns about the legislation and practice relating to the recognition of the gender identity of transgender and gender diverse people in official documents in the ACT. In that letter I sought your commitment to the implementation of the recommendations of the Report of the Australian Human Rights Commission (AHRC), *Sex Files: the legal recognition of sex in documents and government records* to respect the human rights of the sex and gender diverse community.

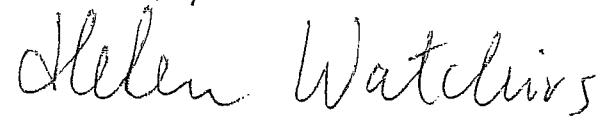
I have not received a response to this letter, but note your response to questions on notice on law reform and gender issues asked by Mr Shane Rattenbury MLA, reported in ACT Hansard on 12 November 2009. This suggests that the ACT Government is not currently actively implementing the AHRC recommendations.

I have been requested by Mr Rattenbury, as well as [REDACTED] to undertake an inquiry into human rights and discrimination issues faced by the ACT sex and gender diverse community. I strongly support the call for greater protection and promotion of the human rights of transgender and intersex members of the ACT community. However, I do not presently have the resources to conduct a full inquiry and consultation into these issues.

I propose instead to provide you with a detailed human rights advice under s. 27(2)(b) of the *Human Rights Commission Act 2005* regarding Part 4 of the *Births Deaths and Marriages Registration Act 1997*, and options for law reform to ensure consistency with international human rights standards. I undertake to provide this advice in February 2010.

The contact officers for this matter are Ms Gabrielle McKinnon (Wed-Fri) and Mr Sean Costello.

Yours sincerely

A handwritten signature in cursive script that reads "Helen Watchirs". The signature is written in black ink and is positioned below the typed name.

Dr Helen Watchirs
Human Rights and Discrimination Commissioner
10 December 2009