

REF: FOI:16-02



Dear 

I refer to your application submitted to the Justice and Community Safety Directorate under the ACT Freedom of Information Act 1989 (the Act). This application was partially transferred to ACT Health on 16 December 2015. The request was for documents relating to the content and drafting of the *Health (Patient Privacy) Amendment Act 2015*.

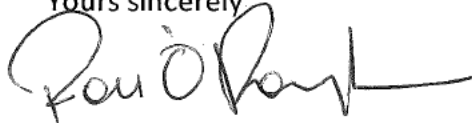
As Executive Director, Policy and Government Relations I am an officer authorised under section 22 of the Act to make a decision in relation to your request. ACT Health has identified 505 pages of documents in its possession that meet the scope of your request. I have decided that a number of these documents are exempt or to be partially released in accordance with the Act as outlined in the Schedule of Documents attached to this letter.

Under section 54 of the Act, if you are concerned about the processing of your request or related administrative matters, you may complain to the Ombudsman, who may conduct an independent investigation into your complaint. There is no fee for this, and the contact details are as follows:

The Ombudsman  
GPO Box 442  
CANBERRA ACT 2601

If you have any queries concerning ACT Health's processing of your request, or would like further information, please contact the Freedom of Information Coordinator on 6205 1340 or via email at [HealthFOI@act.gov.au](mailto:HealthFOI@act.gov.au)

Yours sincerely



Ross O'Donoghue  
Executive Director  
Policy and Government Relations

10 February 2016

## SCHEDULE OF DOCUMENTS

## Health (Patient Privacy) Act 2015 – FOI16-02

FOLIO	ITEM	DATE	STATUS	REASON FOR EXEMPTION	Internet publication – YES/NO – if no, why not
1-78	Email-GBC15/264-Brief-Health (Patient Privacy) Amendment Bill- ACT Health Submission	18.08.15	Exempt S36, S35	Internal working documents Cabinet-in-Confidence Attachment-Letter Minister for Health to Chief minister supplied at folio 95	NO-Exempt S36, S35
79	GBC15/264-Health (Patient Privacy) Amendment Bill	18.08.15	Full Release	Attachments supplied at folio 1-78	
80-81	Email-FW:GBC15/264-Brief-Health (Patient Privacy Amendment Bill- ACT Health Submission	19.08.15	Full Release	Attachments supplied at folio 1-78	
82-83	Email:FW:GBC15/264: Brief-Health (Patient Privacy) Amendment Bill- ACT Health Submission	20.08.15	Full Release		
84-85	Email:FW:GBC15/264: Brief-Health (Patient Privacy) Amendment Bill- ACT Health Submission	20.08.15	Full Release	Attachments supplied at folio 1-78	
86	Email-RE; DP Thurs 17 Sept 2015	17.09.15	Full Release		
87-90	Email-FW: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015	23.09.15	Full Release		

**ATTACHMENT A**

91-93	Email-FW: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015	23.09.15	Full Release	Attachment supplied at folio 87-90	
94-132	MIN15/1054-Meeting-Women's Centre for Health Matters-Marcia Williams and Angela Carnovale-Exposure draft of the Health (patient Privacy) Amendment Bill 2015 (exclusion Zones)-7 Oct 2015	25.09.15	Part Release Exempt S36	Internal working documents Attachment A-MIN15/1054 supplied at folio 1-78	NO-Exempt S36
133-134	Email-FW: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	07.10.15	Full Release		
135	Email-Re: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC 15/303	07.10.15	Full Release		
136-137	Email-Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	07.10.15	Full Release		
138-139	Email-FW: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	07.10.15	Full Release		
140	Email-FW: Draft email for JACS and TAMS to nominate action officers	07.10.15	Full Release		
141-142	Email-RE: Draft email for JACS and TAMS to nominate action officers	08.10.15	Full Release		
143-146	Email-FW: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015	08.10.15	Full Release	Attachment supplied at folio 87-90	

**ATTACHMENT A**

147-152	Email-urgent-contact details of JACS	08.10.15	Part Release S36	Internal working documents	Part Release NO-Exempt S36
153-156	Email-RE: urgent-contact details of JACS	08.10.15	Full Release		
157-158	Email-FW: Health (Patient Privacy) Amendment Bill	08.10.15	Full Release		
159-161	Email-Health (Patient Privacy Amendment) Bill 2015 brief	08.10.15	Full Release	Attachment-Clearance Page-MIN: 2015/004268 supplied at folio 1-78	
162-163	Email-Fwd: Health (Patient Privacy) Amendment Bill	08.10.15	Full Release		
164-166	Email-RE: Health (Patient Privacy) Amendment Bill	08.10.15	Full Release		
167-182	Email-(no subject)	08.10.15	Part Release Exempt S36	Internal working documents Attachment-GBC15-190 Dot Points supplied at folio 1-78	Part Release NO-Exempt S36
183	Email-RE: Health (Patient Privacy) Amendment Bill	08.10.15	Full Release		
184-186	Email-RE: Health (Patient Privacy Amendment) Bill 2015 brief	08.10.15	Full Release		
187	Email-Health (Patient Privacy) Amendment 2015	08.10.15	Full Release	Attachment supplied at folio 1-78	
188	Email-Re: Exclusion zones	09.10.15	Exempt S36	Internal working documents	NO-Exempt S36
189-192	Email-Re: Health (Patient Privacy Amendment) Bill 2015 brief	09.10.15	Full Release		



**ATTACHMENT A**

193-194	Email-Re: Health (Patient Privacy) Amendment 2015	09.10.15	Full Release		
195-196	Email-FW: Health (Patient Privacy) Amendment 2015	09.10.15	Full Release		
197	Email-Health (Patient Privacy) Amendment Bill 2015	12.10.15	Full Release		
198	Email-RE: Health (Patient Privacy) Amendment Bill 2015	12.10.15	Full Release		
199	Email-FW: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	13.10.15	Full Release	Attachment supplied at folio 87-90	
203	Email-RE: Health (Patient Privacy) Amendment Bill 2015-DPP input requested	13.10.15	Full Release		
205-219	Email-GBC15-303_Gov position on Health (patient privacy) amendment bill 2015 v 1	13.10.15	Part Release Exempt S35	Cabinet-in-Confidence	Part Release NO-Exempt S35
220-242	Email-C-I-C: GBC15-303_Gov position on health (patient privacy) amendment bill 20151	13.10.15	Exempt S35	Cabinet-in-Confidence Attachment supplied at folio 1-78 Attachment-Letter Minister for Health to Chief minister supplied at folio 459-474	NO-Exempt S35
243-247	Email-FW:C-i-C: GBC15-303_Gov position on health (patient privacy) amendment bill 20151	13.10.15	Part Release Exempt S36	Internal working documents Attachment-Letter Minister for Health to Chief minister supplied at folio 459-474 Attachment-Cab Sub supplied at folio 220-244	Part Release NO-Exempt S36

**ATTACHMENT A**

248	Email-Health (Patient Privacy) Amendment Bill 2015-DPP input requested	13.10.15	Full Release		
249-252	Email-RE: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	13.10.15	Full Release		
253-256	Email-RE: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	13.10.15	Full Release		
257-258	Email-RE: C-I-C: GBC15-303_Gov position on health (patient privacy) amendment bill 20151	14.10.15	Exempt S35	Cabinet-in-Confidence	NO-Exempt S35
259-261	Email-Cuts	14.10.15	Part Release Exempt S36	Internal working documents	Part Release NO-Exempt S36
262-292	Email-c-i-c Health (patient privacy) Bill Cabinet package	14.10.15	Exempt S35	Cabinet-in-Confidence Attachments supplied at folio 1-78 Attachment-Letter Minister for Health to Chief minister supplied at folio 459-474	NO-Exempt S35
293-301	Email-3. 15-380 Attachment B Communications Strategy	14.10.15	Part Release Exempt S35	Cabinet-in-Confidence	Part Release NO-Exempt S35
302-303	Email-RE: Comms Strategy Question	14.10.15	Exempt S36	Internal working documents	NO-Exempt S36
304-314	Email-Comms Strategy for GBC15-303 – Health (Patient Privacy) Amendment Bill 2015	14.10.15	Part Release Exempt S35	Cabinet-in-Confidence	Part Release NO-Exempt S35

**ATTACHMENT A**

315-319	Email-Re: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	14.10.15	Full Release		
320-321	Email-RE: Health (Patient Privacy) Amendment Bill 2015-DPP input requested	14.10.15	Full Release		
322-323	Email-RE: Health (Patient Privacy) Amendment Bill	14.10.15	Full Release		
324	Email-Comms Strategy Question	14.10.15	Exempt S36	Internal working documents	NO-Exempt S36
325-326	Email-RE: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	14.10.15	Full Release		
327-331	Email-RE: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	14.10.15	Part Release S36	Internal working documents	Part Release NO-Exempt S36
332	Email-Re: GBC15/303-Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT	14.10.15	Full Release		
337	Email-RE: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	14.10.15	Full Release		
340	Email-RE: Urgent: Government Position Health (Patient Privacy) Amendment Bill 2015-GBC15/303	14.10.15	Full Release		

**ATTACHMENT A**

342	Email-FW: HP Records Manager Correspondence: COR15/12994: Attachment B to Cabinet Submission – Communication strategy – government position health (patient privacy) amendment bill 2015	15.10.15	Full Release	Attachment supplied at folio 304-314	
343-353	Email-comments on comms strategy from Jess	15.10.15	Part Release Exempt S35	Cabinet-in-Confidence	Part Release NO-Exempt S35
354	Email-RE: HP Records Manager Correspondence: COR15/12994; Attachment B to Cabinet Submission-Communication strategy-government position health (patient privacy) amendment bill 2015	15.10.15	Full Release		
355-356	Email-RE: HP Records Manager Correspondence: COR15/12994: Attachment B to Cabinet Submission-Communication strategy-government position health (patient privacy) amendment bill 2015	15.10.15	Exempt S36	Internal working document Attachment supplied at folio 304-314	NO-Exempt S36
357-358	Email-RE: HP Records Manager Correspondence: COR15/12994: Attachment B to Cabinet Submission – Communication strategy-government position health (patient privacy) amendment bill 2015	15.10.15	Exempt S36	Internal working document Attachment supplied at folio 304-314	NO-Exempt S36

**ATTACHMENT A**

359-360	Email-FW: Attachment B to Cabinet Submission-Communication strategy-government position health (patient privacy) amendment bill 2015 PGR edits (V2)	16.10.15	Full Release	Attachment supplied at folio 304-314	
361-385	Email-FW: urgent-FW: Scrutiny Report 38-identified actions	21.10.15	Full Release		
386	Email-FW: JACS request for Health (Patient Privacy) Amendment Cab Sub	21.10.15	Full Release		
387-402	Email-FW: CABINET IN CONFIDENCE Cabinet Forecast for review and update	21.10.15	Part Release Exempt S35	Cabinet-in-Confidence	NO-Exempt S35
403-405	Email-RE: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36
406-407	Email-50m Exclusion Zone from 1 Moore Street	21.10.15	Part Release Exempt S36	Internal working documents	Part Release NO-Exempt S36
408-414	Email-RE: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36
415-420	Email-RE: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents Attachment supplied at folio 406-407	NO-Exempt S36
421	Email-Patient Privacy Bill	21.10.15	Full Release	Internal working documents Attachment-map supplied at 406-407 Attachment-dot points supplied at 415-420	
422-425	Email-RE: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36

**ATTACHMENT A**

426-429	Email-Re: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36
430-431	Email-RE: JACS request for Health (Patient Privacy) Amendment Cab Sub	22.10.15	Full Release		
432	Email-FW: Patient Privacy Bill	21.10.15	Full Release		
433-434	Email-RE: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Full Release		
435	Email-Re: Patient Privacy Amendment Bill-exclusion zones	21.10.15	Full Release	Attachment-Communication Strategy` supplied at folio 304-314 Attachment-TBL & Cab Sub supplied at folio 262-292	
436-438	Email-patient privacy cab sub	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36
439-442	Email-RE: Patient privacy Amendment Bill-exclusion zones	21.10.15	Exempt S36	Internal working documents	NO-Exempt S36
443	Email-Re:Patient Privacy Amendment Bill- exclusion zones	21.10.15	Full Release	Attachment-map supplied at folio 406-407 Attachment-dot points supplied at folio 415-420	
444	Email-Re:Patient Privacy Amendment Bill- exclusion zones	21.10.15	Full Release	Attachment-map supplied at folio 406-407 Attachment-dot points supplied at folio 415-420	
445-447	Email-FW: Patient Privacy Bill	22.10.15	Part Release Exempt S36	Internal working documents Attachment-map supplied at folio 406-407	Part Release NO-Exempt S36

**ATTACHMENT A**

448-453	Email-Cabinet in Confidence	22.10.15	Part Release S35	Cabinet-in-Confidence Attachment-MIN noted in office 19.8.15 supplied at folio 1-78 Attachment-HPPA Amendment Bill supplied at folio 262-292 Attachment-Comms Strategy supplied at folio 304-314	Part Release NO-Exempt S35,
454	Email-FW: GBC15/303-Dot points regarding Health (Patient Privacy) Amendment Bill 2015	22.10.15	Full Release	Attachment-map supplied at folio 406-407 Attachment-dot points supplied at folio 415-420	
455-456	Email-FW:GBC15/303 – Dot points regarding Health (Patient Privacy) Amendment Bill 2015	22.10.15	Full Release	Attachment-map supplied at folio 406-407 Attachment-dot points supplied at folio 415-420	
457-458	Email-FW: URGENT – RE: c-i-c Health (patient privacy) Bill Cabinet package	23.10.15	Full Release		
459-474	Ministerial Brief-GBC15/264 Brief-Health (Patient Privacy) Amendment Bill-ACT Health Submission	23.10.15	Part Release Exempt S35	Cabinet-in-Confidence	Part Release NO-Exempt S35
475-485	Email-H(pp)AB 2015 Bill Debate Package	26.10.15	Part Release Exempt S36	Internal working documents	Part Release NO-Exempt S36
486	Email-Health (Patient Privacy) Amendment latest documents	26.10.15	Full Release	Attachment supplied at folio 475-486	
487	Email-FW: Health (Patient Privacy) Amendment Bill – debate pack	26.10.15	Full Release		

**ATTACHMENT A**

488-489	Email-FW: Health (Patient Privacy) Amendment Bill – debate pack	26.10.15	Full Release		
490	Email-RE: health (Patient Privacy) Amendment Bill	26.10.15	Full Release		
491-493	Email-Dot points for Minister-Exclusion Zones Implementation	28.10.15	Part Release Exempt S36	Internal working documents	Part Release NO-Exempt S36
494	Email-extremely URGENT: Health (Patient Privacy) Amendment Bill 2015	28.10.15	Full Release		
495-497	Email-FW: Revised Assembly amendment – Health (Patient Privacy) Amendment Bill 2015	28.10.15	Full Release	Attachment-ministerial speech coversheet supplied at folio 475-486	
498-500	Email-RE:URGENT: Health (Patient Privacy) Amendment Bill 2015	28.10.15	Full Release		
501-505	Email-FW: Daily Program Thursday 29 October 2015	29.10.15	Full Release		





























































**Orubuloye, Chris (Health)**

---

**From:** Orubuloye, Chris (Health) on behalf of Ministerial and Government Services - Health  
**Sent:** Monday, 17 August 2015 10:29 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Pearson, Karen (Health); Carey, Megan (Health)  
**Subject:** GBC15/264: Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

**Importance:** High

Hi Sonia,

Mr Shane Rattenbury MLA recently released the Exposure draft Bill of the Health (Patient Privacy) Amendment Bill 2015.

This was presented by Mr Rattenbury in the Legislative Assembly on 6 August 2015.

A copy of the draft Bill and Explanatory statement can be found in GBC15/264.

☺ The consultation period is 20 July 2015 – 11 September 2015.

Can you please arrange for the appropriate action officer (Matt Richter or Geoff Purser) to prepare a brief to the Minister to seek his recommendation on whether ACT Health should prepare a submission.

Can I request that the cleared brief be provided back to MAGs by **COB 21 August 2015**.

Please let me know if you have any questions

Thank you

Chris Orubuloye | Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

☺ *are Excellence Collaboration Integrity*

# EXPOSURE DRAFT

Mr Shane Rattenbury

(Prepared by Parliamentary Counsel's Office)

## Health (Patient Privacy) Amendment Bill 2015

---

**A Bill for**

An Act to amend the *Health Act 1993*

---

The Legislative Assembly for the Australian Capital Territory enacts as follows:

---

J2015-109

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Section 1

**1 Name of Act**

This Act is the *Health (Patient Privacy) Amendment Act 2015*.

**2 Commencement**

This Act commences on the day after its notification day.

*Note* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

**3 Legislation amended**

This Act amends the *Health Act 1993*.

**4 New division 6.1 heading**

*insert*

**Division 6.1 Abortions—generally****5 New division 6.2**

*insert*

**Division 6.2 Patient privacy in protected areas****85 Definitions—div 6.2**

(1) In this division:

*approved medical facility* means a medical facility approved under section 83.

**EXPOSURE DRAFT**

***prohibited behaviour***, in a protected area around an approved medical facility, means any of the following:

- (a) the harassment, hindering, intimidation, interference with, threatening or obstruction of another person in the protected period that is intended to stop the person from—
  - (i) entering the approved medical facility; or
  - (ii) having or providing an abortion in the approved medical facility;
- (b) an act that—
  - (i) can be seen or heard by a person in the protected period; and
  - (ii) is intended to stop a person from—
    - (A) entering the approved medical facility; or
    - (B) having or providing an abortion in the approved medical facility;
- (c) a protest, by any means, in the protected period in relation to the provision of abortions in the approved medical facility;
- (d) the intentional capturing of visual data of a person who is entering, trying to enter or who has left an approved medical facility without the person's consent.

***protected area*** means an area declared under section 86.

- (2) For this section, ***protected period***, in relation to an approved medical facility, means the period between 8 am and 6 pm on each day the facility is open or any other period declared by the Minister.

## EXPOSURE DRAFT

---

Section 5

---

- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**86 Declaration of protected area**

- (1) The Minister must declare an area around an approved medical facility to be a protected area.
- (2) In making the declaration, the Minister must be satisfied that the area declared is—
- (a) sufficient to ensure the privacy and unimpeded access for anyone entering, trying to enter or leaving an approved medical facility; but
  - (b) no bigger than reasonably necessary to ensure that outcome.
- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**87 Prohibited behaviour in or in relation to protected area**

- (1) A person commits an offence if the person—
- (a) is in a protected area; and
  - (b) engages in prohibited behaviour.

Maximum penalty: 25 penalty units.

**EXPOSURE DRAFT**

- (2) A person commits an offence if—
- (a) the person publishes captured visual data of another person (the *recorded person*) who is entering or trying to enter, or who has left, an approved medical facility; and
  - (b) the recorded person did not consent to the publication.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply to the capture of visual data, or the publication of captured data, by a law enforcement officer acting reasonably in the exercise of the officer's functions.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) (see Criminal Code, s 58).

- (4) In this section:

*capture visual data*—a person *captures visual data* of another person if the person captures moving or still images of the other person by a camera or any other means in such a way that—

- (a) a recording is made of the images; or
- (b) the images are capable of being transmitted in real time with or without retention or storage in a physical or electronic form; or
- (c) the images are otherwise capable of being distributed.

*law enforcement officer* means—

- (a) a police officer; or
- (b) a member of the staff of the Australian Crime Commission established under the *Australian Crime Commission Act 2002* (Cwlth), section 7.

## EXPOSURE DRAFT



## Section 6

*publish*, captured visual data—

- (a) means communicate or distribute visual data in a way or to an extent that makes it available to, or likely to come to the notice of, the public or a section of the public or anyone else not lawfully entitled to the visual data; and
- (b) includes—
  - (i) entering into an agreement or arrangement to do a thing mentioned in paragraph (a); and
  - (ii) attempting to do a thing mentioned in paragraph (a) or subparagraph (i).

## 6 Dictionary, note 2

*insert*

- police officer

## 7 Dictionary, new definitions

*insert*

*approved medical facility*, for division 6.2 (Patient privacy in protected areas)—see section 85.

*prohibited behaviour*, for division 6.2 (Patient privacy in protected areas)—see section 85.

*protected area*, for division 6.2 (Patient privacy in protected areas)—see section 85.

# EXPOSURE DRAFT

---

## Endnotes

- 1 Presentation speech**  
Presentation speech made in the Legislative Assembly on 2015.
  - 2 Notification**  
Notified under the Legislation Act on 2015.
  - 3 Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
- 

## EXPOSURE DRAFT

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**HEALTH (PATIENT PRIVACY) AMENDMENT BILL 2015**

**EXPOSURE DRAFT**

**EXPLANATORY STATEMENT**

Circulated by  
Shane Rattenbury MLA

## Introduction

This explanatory statement relates to the *Health (Patient Privacy) Amendment Bill 2015* as presented by Mr Shane Rattenbury MLA in the Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

## Overview

The Bill responds to community concerns about particular intimidating and harassing conduct that occurs outside the approved health facility that provides pregnancy terminations, or abortions, in the ACT. The Bill is concerned with preventing certain behaviours within a defined area and within defined times around relevant declared medical facilities. These behaviours may act to increase emotional distress, or at worst, prevent women from accessing a legal and medically recognised procedure. This Bill does not seek to engage in debate regarding a woman's right to access abortion services. The issue of legal, safe and medically supervised abortions was conclusively resolved by the Assembly many years ago, and is protected by the Act that this Bill seeks to amend. This Bill is rather about a woman's right to access those services in relative privacy and free from the intimidating conduct of others. It is also not intended to limit the right to protest, noting that there are many appropriate places to protest or stage vigils.

To achieve this, the Bill will effectively create a zone around approved medical facilities within which protests and other public displays regarding abortion, together with behaviours that may be described as harassment, hindering, intimidation, interference with, threatening, obstruction or filming of a person accessing approved abortion facilities will be prohibited. Importantly, this Bill seeks to create a "protest free zone" – meaning that all forms of protest, by any means, and from any side of the debate, will be prohibited. The intention of the Bill is to ensure that both staff and patients, may enter and exit the facility without prejudice.

**Consultation Period: 20 July 2015 to 11 September 2015**

Shane Rattenbury MLA, ACT Greens Member for Molonglo, invites your feedback and submissions on the proposals in this paper and the exposure draft of the *Health (Patient Privacy) Amendment Bill 2015*.

We would like to hear feedback from all sectors of the community, including the medical and health profession, the general public, and people working in law reform and enforcement.

All comments received by Friday 11 September 2015 will be considered in preparation of the final version of the proposal.

This discussion paper and the exposure draft of the *Health (Patient Privacy) Amendment Bill 2015* are available from:

Office of Shane Rattenbury MLA  
Legislative Assembly  
Ph: 6205 0005 or email [rattenbury@act.gov.au](mailto:rattenbury@act.gov.au).

Submissions should be sent to [rattenbury@act.gov.au](mailto:rattenbury@act.gov.au).

**Important note regarding your privacy:**

If you do not wish your submission to be published or would like it published without your name, please indicate this. Unless this is clearly indicated, it will be assumed that your comments can be made public.

## Human Rights

New sections 85-87 created by clause 5 of the Bill engages the rights to freedom of expression (protected by section 16 of the *Human Rights Act 2004*) and to privacy (protected by section 12 of the *Human Rights Act 2004*). The limitation on the right to freedom of expression is created by paragraphs (b) and (c) of the definition of ‘prohibited behaviour’ in new section 85(1). This limitation is created in order to protect the right to privacy of those seeking to access an approved health facility.

### Freedom of Expression

The Bill does create a minor limitation on a person’s right to freedom of expression protected by section 16 of the *Human Rights Act 2004* (HRA). This limitation is reasonable and demonstrably justified in a free and democratic society consistent with requirements of section 28 of the HRA.

#### *The nature of the right affected*

The right to express oneself and one’s views on any given issue is unquestionably a fundamental part of Australian democracy. Within this right is the right to protest one’s objection to a law, practice or other activity that they believe to be wrong. This right is affected by the new offence created in the Bill.

#### *The importance of the purpose of the limitation*

The limitation created on this right is intended to ensure that a person can access services that the community and the Legislative Assembly have deemed both legal and necessary, free from the unjustified interference of others. It is intended to ensure that women who have made a very difficult, significant and emotional decision, and/or as a result of medical advice, are able to exercise that well accepted choice unimpeded by the additional and unreasonable burden of other people’s questioning and interference with that choice. The decision to seek a pregnancy termination or exercising of the medical options to undertake an abortion that to some extent places them in a particular position of vulnerability for a variety of reasons can, it has been considered, be unduly influenced by the gathering of people opposed to the procedure, to such an extent that a woman may not undertake the medical procedure. It could also be said that “counter” protests also bring increased attention to the facility and the procedures performed within. This may in certain circumstances place that woman at considerable risk to her physical and emotional well-being during this vulnerable period.

#### *The nature and extent of the limitation*

The extent of the limitation created by the Bill is very minor as it is site-specific. It does not interfere with a person’s more general right to protest in relation to abortions. People will remain free to protest anywhere else they like (subject to other lawful limitations created by other Acts). The limitation only applies to a relatively small geographic area, declared by the responsible Minister under criteria that defines the least restrictive means to achieve the stated outcome. Further, the limitation only applies to a defined period allowing staff and patients safe and

private access to the approved facility, thereby allowing protests to occur outside of these times. This Bill in no way interferes with any person's ability to make their objections known to others in the community. This could occur either through a physical protest, for example outside the Legislative Assembly, which may be considered more appropriate as the seat of parliament responsible for approving the procedures in law, or by otherwise engaging in public debate for example by writing letters to newspapers or other publications.

*The relationship between the limitation and its purpose*

The limitation is restricted exclusively to its purpose. Conduct is only prohibited to the extent necessary to protect a patient's right to privacy at declared sites and the limitation only operates so far as is reasonably necessary to protect other members of the community from inappropriate and often distressing conduct.

Just as it is unlawful to engage in a protest or other public display in all manner of different circumstances, for example because of the risk and even mere inconvenience that it may create for others, the Bill will prevent certain conduct due to its unreasonable impact on others.

Everyone has the right to feel safe in their community and at a time when people may be particularly vulnerable to distress it is reasonable and proportionate that the community takes measures to ensure that the legal medical services are able to be accessed by all who need them.

*Any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.*

The Bill is designed to protect members of the community from the unwanted and unreasonable interference of others. It does so in a manner that limits rights to the minimum extent possible to achieve this purpose. The offences created cover only clearly defined time and geographically limited classes of conduct. The behaviour relates only to a specific subject matter and corresponding health service/s.

The only matter that is reasonably open to debate in relation to whether it is the least restrictive means available, is the extent of the geographical limitation. This Bill provides the Minister responsible with criteria for determining this distance, being the reasonable space within which it is possible for a person to access the services without being subjected to the prohibited behaviour. This declared "protected area" will be subject to scrutiny from the Members of the Legislative Assembly as a disallowable instrument. To that extent it is the least restrictive means possible of achieving the purpose of protecting patient privacy and their right to access medical services.

### **Delegation of Legislative Power**

The Bill does not delegate legislative power to the executive.

### **Administrative powers created by the Bill**

The Bill provides the Minister responsible for the *Health Act 1993* powers to declare both a protected area and a protected period. To ensure these powers are exercised appropriately the declarations will have Legislative Assembly oversight as a disallowable instrument under section 85 subclause (3) and section 86 subclause (3). A disallowable instrument must be presented to the Legislative Assembly not later than 6 sitting days after notification and may be disallowed or amended by the Legislative Assembly.

This Bill outlines criteria that define what must guide a Minister in making these declarations. This has been considered to ensure that the powers conferred on the Minister are limited to only what is required to support the outcome of the Bill, namely unhindered and unimpeded access to medical treatment at approved medical facilities.

Section 48 of the *Legislation Act 2001* provides the Assembly power to make such statutory instruments, which includes power to make different provision in relation to different matters or different classes of matters, and to make an instrument that applies differently by reference to stated exceptions or factors.

## Notes on Clauses

### Part 1 Preliminary

#### Clauses 1-3

These are formal clauses setting out the name of the Act and its commencement date (the day after the Act's notification day) and providing that it amends the *Health Act 1993*.

#### Clause 4 New division 6.1 heading

This formal clause inserts a new division for *Part 6 – Abortions*, including a new heading *Abortions - generally* for sections 80 – 84, allowing for a new division in the Act to separate the issue of patient privacy from abortions generally.

#### Clause 5 New division 6.2, new sections 85-87

This clause creates a new division of *Patient privacy in protected areas*, and associated definitions and offences for conduct that interferes with a person's right to access medical services free from the harassment of others.

Section 85 creates broadly four offences for conduct engaged in within a protected area and protected time of operations of the approved medical facility:

- Harassing, intimidating, obstructing or in any other way attempting to stop a person attempting to access abortion services at an approved medical facility;
- Acts that can be seen or heard during a defined time in a defined area;
- Protesting or another similar public display by any means in relation to the provision of abortions in the approved medical facility; and
- Filming or transmitting images of people entering and leaving approved medical facilities and publishing recordings of people entering or leaving approved medical facilities.



The underlying intention behind prohibiting the described behaviour is to ensure that people who are attempting to access the medical services provided in the approved medical facility can do so in relative privacy and are not subjected to intimidating behaviour from others.

The types of prohibited behavior are also prohibited in other contexts (see for example section 35 of the *Crimes Act 1900*) and the ordinary meaning of each of the terms clearly conveys the behavior that the Bill seeks to prohibit.

The Bill uses the term ‘capturing visual data’ to ensure that the offence of in any way filming or recording a person seeking to access or leave an approved medical facility is as broad as possible. It is taken from section 61B (10) of the *Crimes Act 1900* and is intended to cover the live streaming of images for example through programs such as Skype where there may not be a more conventional recording but the type of behavior that the Bill is seeking to prohibit still occurs.

Section 85 (2) defines a protected period that is designed to ensure a period of time that staff and patients may freely access the approved facility unhindered, and is based on standard definitions of business working hours, with an additional period of one hour either side of these hours to ensure there can be little to no accidental overlap of permissible protests and access to the facility. The subsection further allows for the responsible Minister to change these hours, utilising a disallowable instrument, if the hours of operation change or fall outside the usual 9am to 5pm business hours.

Section 86 provides the responsible Minister with the power to declare a protected area around the approved facility in which the previously defined behavior is not permissible. This area cannot be bigger than is reasonably required to ensure that patients and staff can enter the facility unimpeded. Subsection (3) also requires this declaration to be presented to the Legislative Assembly for scrutiny as a disallowable instrument.

Section 87 outlines the penalty units that a person may attract for behaving in a prohibited manner in the declared area and period. For behavior outlined in section 85 relating to protests, (1) (a) to (c), the penalty is a financial fine equal to up to 25 penalty units (outlined in the *Legislation Act 2001*).

For behavior outlined in section 85 (d), and further detailed in section 87 (2) to (4) which relates to the capturing and publishing of visual data - e.g. photos or video footage – the maximum penalty is 50 penalty units, imprisonment for 6 months or both. This is higher than that for section 85 (1) (a) to (c) as a reflection of the seriousness of the infringements of privacy and reputation of staff or clients that may arise if the offence is committed.

This section allows for law enforcement agencies to undertake visual surveillance or digital recording of events if reasonably required in the normal course of their duties or investigations, but is subject to normal existing provisions to any use of that data.

Clause 6 Dictionary, note 2

This clause is a consequential amendment to add the term 'police officer' into the note to the dictionary indicating that the term is defined in the *Legislation Act 2001*.

Clause 5 Dictionary, new definitions

This clause provides definitions for the purposes of the Bill and the relevant new sections.







UNCLASSIFIED

TRIM No.: MIN:2015/004268

Date Rec'd Minister's Office 1/7/15

To: Attorney-General

From: Executive Director Legislation, Policy and Programs

Subject: Greens Health (Patient Privacy) Amendment Bill 2015 human rights implications

Critical Date: Urgent

Critical Reason: Your office asked for urgent advice

- DG (JACS) 1/7/15
- DDG 26/6/15

**Purpose**

1. On 22 June 2015 your office requested urgent advice on the human rights implications of the *Health (Patient Privacy) Amendment Bill 2015* (the 'HPPA Bill'). This brief provides a preliminary assessment of the legal issues relating to measures to introduce exclusion zones around abortion clinics.

**Background**

2. On 25 March 2015 Greens Member Shane Rattenbury was reported in the *Canberra Times* (Attachment A) as calling for an exclusion zone around Canberra's abortion clinics to prevent the harassment and intimidation of women accessing the services of abortion clinics.
3. Under part six of the *Health Act 1993* ('Health Act') abortions are legal in the ACT if carried out by doctors in approved medical facilities.
4. In the *Canberra Times* article Mr Rattenbury was reported as proposing legislation which would create buffer zones similar to those implemented in 2013 in Tasmania, in the *Reproductive Health (Access to Terminations) Act 2013* (Attachment C), where protests are banned within 150m of abortion clinics.
5. The article reported that various 'right to life' groups had been protesting outside the ACT Health Building on Moore Street for approximately 16 years.
6. Mr Rattenbury's office has drafted the HPPA Bill (Attachment B) which if passed would likely make acts constituting this protest unlawful.

**Issues**

*The HPPA Bill structure*

7. The HPPA Bill proposes to amend the Health Act to introduce a new division in part six relating to patient privacy in protected areas.
8. The HPPA Bill would introduce s87(1) which would make it an offence for a person to engage in 'prohibited behaviours' in a 'protected area' around 'approved' medical facilities.

UNCLASSIFIED

## UNCLASSIFIED

9. The 'protected area' would be declared by the Minister and must be no bigger than as reasonably necessary to ensure a person's privacy and unimpeded access (s86). 'Prohibited behaviours' in that area includes various forms of harassment, acts that prohibit access to the medical facility, protests, and filming of people without their consent. Behaviours are prohibited only during a 'prohibited period', between 8am and 6pm each business day (or other time as declared by the Minister)(s85(1)). Unauthorised filming is prohibited at all times.
10. The Bill contains two offences. The first, engaging in prohibited behaviour in a prohibited area, carries a maximum penalty of 25 penalty units (s87(1)). The second is an unauthorised filming offence, which carries a penalty of 50 penalty units and/or imprisonment for six months (s87(2)).

*Comparison with Tasmanian legislation*

11. Tasmania recently enacted similar 'exclusion zone' provisions in its *Reproductive Health (Access to Terminations) Act 2013* (The Act). This Act was part of a series of reforms to decriminalise abortions in that State.
12. The main difference between the Tasmanian legislation and the HPPA Bill is that Tasmania legislates a 150m boundary for the 'protected area', rather than leaving it to the Minister's declaration.
13. Specific police powers are also given to Tasmanian police in the legislation (name and address demand, stop, search and seize powers), where they believe someone is committing or has committed an offence. These do not appear in the HPPA Bill, but would most likely be available in any case.
14. The Tasmanian legislation also contains clauses allowing police to issue infringement notices in respect of offences in the Act prescribed by regulation as 'infringement offences'. Infringement notices could be provided in relation to the HPPA Bill offences once passed by way of a regulation.

*Human Rights Implications*

15. The HPPA Bill engages, and will potentially limit, a number of human rights in the *Human Rights Act 2004* ('HRA') in relation to anti-abortion protesters: the right to freedom of movement (s13), the right to freedom of thought, conscience, religion and belief (s14), the right to peaceful assembly and freedom of association (s15) and the right to freedom of expression (s16).
16. Facilitating access to health care services (including abortion) by women engages and could be argued to improve the protection of women's rights - protection from discrimination (s8); protection of the family and children (s11); privacy (s12) and security of the person (s18).

## UNCLASSIFIED

17. Women have a number of rights in international human rights law which have not been directly adopted in the HRA including a general right to the highest attainable standard of physical and mental health under article 12 of the International Covenant on Economic, Social and Cultural Rights and article 12 of the Convention for the Elimination of All Forms of Discrimination Against Women which provides that -

“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning”.

18. In determining whether the clear limitations on rights to assembly are compatible with the HRA, an assessment of the purpose and nature of the exclusion zone proposal would need to be undertaken.
19. As the HPPA Bill is not a Government Bill, it is not subject to the same pre-legislative scrutiny processes, normally requiring you satisfy yourself that a bill is consistent with Human Rights.
20. Subject to the consideration of this issue in the ACT context and the views of ACT stakeholders to inform an evidence base, it is likely that such legislation could be justifiable and therefore compatible with the HRA.
21. An indicative consideration of the human rights issues in the ACT context is at Attachment D.

#### *Constitutional issues*

22. There is also a broader question of whether this legislation or specific provisions, might be considered unconstitutional for breaching the implied freedom of political communication.
23. In considering this question similar proportionality considerations as arise under the HRA test arise. A preliminary assessment by Eleanor Jones, a Sydney Law School academic (Attachment E) found that the Tasmanian legislation may infringe the implied Constitutional freedom of political communication by prohibiting benign protest (e.g. silent prayer). However, this may not be the case for prohibition of harassment/offensive communication. *Conclusion – further HRA consideration and Solicitor-General advice required*
24. Consultation with the ACT Health Directorate, ACT Policing, the DPP and the Human Rights Commission ('HRC') is necessary to determine whether the HPPA Bill strikes an appropriate and proportionate balance between the rights to protest and rights to privacy.
25. The Solicitor-General's views on the constitutional issues are being sought.

#### **Financial Implications**

26. Nil.

#### **JACS Directorate and Cross Directorate Consultation**

27. Consultation with Police and the Director of Public Prosecutions would be necessary to determine the enforceability of the offences in the HPPA Bill.
28. The Solicitor-General's preliminary views on the Bill have been sought.

UNCLASSIFIED

## UNCLASSIFIED

29. The HRC has provided advice to your office separately. That advice raised similar considerations as discussed in this brief. The HRC concluded that the HPPA Bill was 'appropriately circumscribed' and would be compatible with human rights, subject to some refinements to the standard of belief for declaring a protected area, and the restriction on filming in the protected area. The HRC advice did not address the constitutional issues.

**Next steps**

30. Consideration of the HPPA at the Social Inclusion and Equality subcommittee of Cabinet may assist to develop a Government position on it. We suggest you consider raising this matter at the subcommittee under cover of an Information Cabinet submission prepared by Justice and Community Safety (JACS) Directorate.

**External Consultation**

31. This is an internal matter.

**Benefits/Sensitivities**

32. The Opposition Leader, Jeremy Hanson MLA is reported as opposing exclusion zone laws in the *Canberra Times* article.

**Media Implications**

33. Media attention is anticipated in relation to the government's response to the HPPA. Media materials will be provided to your office on request.

UNCLASSIFIED



UNCLASSIFIED

**Recommendations**

That you:

1. note that a advice is being sought from the Solicitor-General as to the constitutionality of the HPPA;

**Noted/ Please Discuss**

2. agree that JACS undertake further consultation with the Health Directorate, ACT policing, the DPP and the Human Rights Commission, to ascertain and consider the scope of proposed prohibited conduct to better inform the HRA implications; and

**Agreed/Not Agreed/ Please Discuss**

3. agree to progress the Bill to Cabinet's subcommittee on Social Inclusion and Equality by way of an Information Cabinet submission.

**Agreed/Not Agreed/ Please Discuss**

Simon Corbell MLA ...../...../.....

Minister's Comments

7-7-15

Signatory Name:	Julie Field	Phone:	70522
Title:	Executive Director, LPP		
Date:	1 July 2015		
Action Officer:	Alex Jorgensen	Phone:	70534

UNCLASSIFIED

UNCLASSIFIED

GBC15/190

TRIM No.: Click here to enter text.

Date Rec'd Minister's Office 24/6/15

**To:** Minister for Health

---

**From:** Ms Nicole Feely, Director-General ACT Health

---

**Subject:** Health (Patient Privacy) Amendment Bill

---

**Critical Date:** 25 June 2015

---

**Critical Reason:** The ACT Greens Party have indicated they intend to release draft exposure legislation on exclusion zones around abortion clinics

- DG Health .../.../...
- DDG S&C .../.../...

**Purpose**

1. To brief you on an exposure draft of a Bill developed by the ACT Greens Party in relation to the introduction of exclusion zones around medical facilities that provide for abortions in the ACT.

**Background**

2. In March 2015 the Canberra/Goulburn Catholic Archbishop Christopher Prowse led a protest outside the ACT Health Building on Moore Street as part of the Days for Life campaign, which advocates for the eradication of abortion.
3. The Dr Marie Stopes International clinic is located in ACT Health's 1 Moore Street premise. The clinic provides family planning and sexual health services, including abortions.
4. In response, Minister Shane Rattenbury MLA publicly voiced his disapproval of the protest and proposed the introduction of exclusion zones around abortion clinics.
5. Subsequent to this, the ACT Greens have developed exposure draft legislation in relation to this issue. The ACT Greens have indicated that they intend for the draft to be released on Thursday 25 June for consultation.

**Government Commitment** The ACT Government repealed abortion as a criminal offence in the *Crimes (Abolition of Offence of Abortion) Act 2002*. This move reflected the ACT Government policy position that termination of a pregnancy is a health issue to be managed by the healthcare system, rather than a criminal matter.

7. The *Health Act 1993* provides a legislative basis for the provision of abortion procedures in the ACT. Part 6 of the *Health Act 1993* provides that only a doctor may carry out an abortion; that an abortion is to be carried out in an approved medical facility, that the Minister may approve a medical facility or an appropriate part of a medical facility as suitable on medical grounds for carrying out abortions, and that no-one is under any duty to carry out or assist in carrying out an abortion.

UNCLASSIFIED

8. The Dr Marie Stopes International, at level 1, 1 Moore Street Canberra City was approved as a medical facility under the Health Act by the then ACT Minister for Health Katy Gallagher MLA on 29 July 2006 under Notifiable Instrument NI2006-288.

## Issues

### The (Health (Patient Primacy) Amendment Bill 2015 (the Bill))

9. The Bill seeks to amend the *Health Act 1993*.
10. The ACT Health Directorate administers the *Health Act 1993*.
11. The Bill may have implications under the *Human Rights Act 1994* administered by the Justice and Community Safety Directorate.
12. The Bill introduces the concept of prohibited behaviour in protected areas around medical facilities approved under the *Health Act 1993*. Currently, approved medical facilities in the ACT are:
  - a. The Canberra Hospital
  - b. National Capital Private Hospital
  - c. Marie Stopes International
  - d. John James Memorial Hospital
13. Prohibited behaviour in general terms in the Bill is referring to behaviours intended to stop a person from entering an approved medical facility or having or providing an abortion in an approved medical facility.
14. Prohibited behaviour also refers to protests by any means in the relation to the provision of abortion in the medical facility and the intentional capturing of visual data without the consent of a person who is entering or leaving the facility<sup>1</sup>.
15. It is offence under the Bill to display the prohibited behaviour in a protected area on approved medical facility during a protected period of eight am to six pm on each day the facility is open, or any other period declared by the Minister<sup>2</sup>.
16. The protected area is to be declared by the Minister via disallowable instrument, under the consideration that the area is reasonably necessary to ensure the privacy and unimpeded access for anyone entering, trying to enter or leaving an approved medical facility and that the area is no bigger than reasonably necessary to ensure that outcome.

---

<sup>1</sup> Law enforcement activities are excluded from this clause.

<sup>2</sup> With the exception of intentional capturing of visual data for which there is no protected period.


### Personal Rights

17. In the ACT, termination of a pregnancy is considered a healthcare issue, not a criminal issue. There are a broad range of reasons why a woman may wish to, or need to terminate a pregnancy, and each needs to be considered on a case by case basis.
18. The Australian Charter of Health Care Rights, developed by the Australia Commission on Safety and Quality in Healthcare has at its core the right that everyone be able to access health care, and that care is provided showing respect to the patient, their cultural beliefs, values and personal characteristics. The charter also outlines patient's right to personal privacy.
19. Under the *Human Rights Act 2004*, everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily, and not to have his or her reputation unlawfully attacked. This Act also makes clear under Freedom of Thought, Conscience, Religion and Belief section that no-one may be coerced in a way that would limit his or her freedom to have or adopt a religion or belief in worship, observance, practice and teaching, either individually or as part of a community and whether in public or private.
20. The Bill will need to undertake a compatibility assessment with the *Human Rights Act 2004*, particular in relation to the right for the Freedom of Movement and Peaceful Assembly.

### National Scene

21. Currently, only Tasmania has in place exclusion zone legislation which criminalises filming, intimidation and protests against patients within 150 metres of abortion clinics.
22. In Victoria, the *Public Health and Wellbeing Act 2008* provides for the rights of people to access legal health services.
23. In relation to the legality of abortion, this is governed by State law and varies from state to state. In all jurisdictions abortion is legal to protect the life and health of the woman.
24. Early-term surgical abortions are also generally available around Australia and the procedure is partially funded under Medicare.
25. Only in Victoria, the ACT and Tasmania is abortion legal on request. In all other jurisdiction, legality depends on demonstration of other factors such as maternal life, rape, health, foetal defection, mental health and so on.

### Enforcement

26. Whilst amending the *Health Act 1993*, the Bill targets areas surrounding medical facilities and its implementation and administration will be the responsibility of the Territory and Municipal Services Directorate (TAMS). At minimum, signage will need to be put in place in *protected areas*. 

27. The Bill also introduces penalty units and potential imprisonment for offences. The Justice and Community Safety Directorate (JACS) and the Australian Federal Police will need to be consulted in relation to enforcing prohibited behaviour under the Bill.
28. It is unclear whether the activities of individuals who do not support termination of pregnancy, who routinely congregate outside the 1 Moore Street facility would be classified as prohibited behaviour as these individuals claim to be praying, not protesting.

### Financial Implications

29. Enforcement of the Bill will have some financial implications. Both JACS and TAMS Directorates will need to be consulted in this regard.

### Directorate Consultation

30. Other Directorates have not been consulted in the development of this initial advice.

### External Consultation

31. Nil. However, it should be noted that the Chief Minister has received an email from an individual expressing their support for exclusion zones. The individual has written in a personal capacity, but is an officer employed in the ACT Human Rights Commission.

### Benefits/Sensitivities

32. This issue of termination of pregnancy is a highly sensitive topic.
33. In general, polling seems to indicate that majority of people support abortion rights, and that the issue is more complex than simply a yes/no response.<sup>3,4</sup>
34. The Bill limits the ability for protesters to influence the conscience of people exercising a right to access a legal health service in the ACT. Whilst limiting an individual's right to freedom of assembly in certain circumstances, the Bill does not limit the ability to protest in other areas such as the ACT Legislative Assembly or other public areas.
35. Given the legal status of termination of pregnancy in the ACT, it is reasonable to expect that protests and political activism should target lawmakers, rather than individual citizens exercising their personal right to conscience and access to healthcare.
36. However, this needs to be balanced against whether this approach to the issue of public protest is reasonable. For example, is it acceptable to create exclusion zones around other areas where people might protest legal activities, such as recent protest activities outside of a Commonwealth Bank branch in Belconnen where protesters were urging the Commonwealth Bank not to finance fossil fuel projects?

<sup>3</sup> Betts, K (2009). *Attitudes to abortion: Australia and Queensland in the 21st century*. Monash University People and Place, vol. 17, no. 3, 2009.

<sup>4</sup> Lachlan J de Crespigny, L. J., Wilkinson, D. J., Douglas, T., Textor, M., and J. Savulescu (2010). *Australian attitudes to early and late abortion*. Medical Journal of Australia. 2010; 193 (1): 9-12.

**Media Implications**

- 37. There was considerable media attention generated by the Canberra/Goulburn Catholic Archbishop a protest outside the ACT Health Building on Moore Street in March, and Minister Rattenbury's MLA subsequent public statements.
- 38. There has been media attention in other jurisdiction focussed on this issue. For example, a clinic in Melbourne has launched Supreme Court action against Melbourne city Council to try and stop protestors harassing patients and staff. The clinic is claiming that the council has failed to apply a law the *Public Health and Wellbeing Act 2008* that provides for the rights of people to access legal health services.

**Recommendations**

That you:

- 1. Note the information contained in this brief;

**Noted / Please Discuss**

- 2. Note the attached media points.

**Noted / Please Discuss**

Simon Corbell MLA.....

*Noted in office*

*19/8/15*

Minister's Comments

Signatory Name: Rosemary O'Donnell Phone:

Title: Acting Executive Director Policy and Government Relations

Date:

Action Officer: Matt Richter Phone: 79143

# JUSTICE AND COMMUNITY SAFETY

Issues Brief - Initiated

Health (Patient Privacy) Amendment Bill 2015 Abortion exclusion zones advice

MIN:2015/004268



Correspondent:  
Receiving Minister

## Tracking

Receipt date

Date referred to directorate 24/06/2015

Date due to Minister

Date response rec'd in MO 01/07/15

## Action

Priority                      Routine                      Critical date

Division                      LEGISLATION, POLICY AND PROGRAMS

Required action

For reply by

Action officer              *alex jorgensen*

Ext. 70 534

Action notes

## Clearance

Director-General:

Approved

Approved subject to changes indicated

Resubmit with changes indicated

Deputy Director-General:

Approved

Approved subject to changes indicated

Resubmit with changes indicated

Chief Finance Officer

Executive Director

*Julie Field*

24/6/15

Notes:

*M. Dixon*

26/6/15

*Please discuss ASAP.*

*Resubmission - 26/6/15.*

*DG requested back to LPP for changes 29.6.*

*Resubmission 1.7.15 with requested changes.*

## Filing

External file number

External file source

Date Filed

\*When all action is complete, please file papers and provide file number. 'External file source' is the record keeping system on which the file is captured (e.g. ACT Record Services, Objective IDMS etc).

UNCLASSIFIED

TRIM No.: MIN:2015/004268

Date Rec'd Minister's Office 1.7.15

**To:** Attorney-General

**From:** Executive Director Legislation, Policy and Programs

**Subject:** Greens Health (Patient Privacy) Amendment Bill 2015 human rights implications

**Critical Date:** Urgent

**Critical Reason:** Your office asked for urgent advice

- DG (JACS) 1.../6./15
- DDG 26/6/15

**Purpose**

1. On 22 June 2015 your office requested urgent advice on the human rights implications of the *Health (Patient Privacy) Amendment Bill 2015* (the 'HPPA Bill'). This brief provides a preliminary assessment of the legal issues relating to measures to introduce exclusion zones around abortion clinics.

**Background**

2. On 25 March 2015 Greens Member Shane Rattenbury was reported in the *Canberra Times* ([Attachment A](#)) as calling for an exclusion zone around Canberra's abortion clinics to prevent the harassment and intimidation of women accessing the services of abortion clinics.
3. Under part six of the *Health Act 1993* ('Health Act') abortions are legal in the ACT if carried out by doctors in approved medical facilities.
4. In the *Canberra Times* article Mr Rattenbury was reported as proposing legislation which would create buffer zones similar to those implemented in 2013 in Tasmania, in the *Reproductive Health (Access to Terminations) Act 2013* ([Attachment C](#)), where protests are banned within 150m of abortion clinics.
5. The article reported that various 'right to life' groups had been protesting outside the ACT Health Building on Moore Street for approximately 16 years.
6. Mr Rattenbury's office has drafted the HPPA Bill ([Attachment B](#)) which if passed would likely make acts constituting this protest unlawful.

**Issues***The HPPA Bill structure*

7. The HPPA Bill proposes to amend the Health Act to introduce a new division in part six relating to patient privacy in protected areas.
8. The HPPA Bill would introduce s87(1) which would make it an offence for a person to engage in 'prohibited behaviours' in a 'protected area' around 'approved' medical facilities.

UNCLASSIFIED



## UNCLASSIFIED

9. The 'protected area' would be declared by the Minister and must be no bigger than as reasonably necessary to ensure a person's privacy and unimpeded access (s86). 'Prohibited behaviours' in that area includes various forms of harassment, acts that prohibit access to the medical facility, protests, and filming of people without their consent. Behaviours are prohibited only during a 'prohibited period', between 8am and 6pm each business day (or other time as declared by the Minister)(s85(1)). Unauthorised filming is prohibited at all times.
10. The Bill contains two offences. The first, engaging in prohibited behaviour in a prohibited area, carries a maximum penalty of 25 penalty units (s87(1)). The second is an unauthorised filming offence, which carries a penalty of 50 penalty units and/or imprisonment for six months (s87(2)).

#### *Comparison with Tasmanian legislation*

11. Tasmania recently enacted similar 'exclusion zone' provisions in its *Reproductive Health (Access to Terminations) Act 2013* (The Act). This Act was part of a series of reforms to decriminalise abortions in that State.
12. The main difference between the Tasmanian legislation and the HPPA Bill is that Tasmania legislates a 150m boundary for the 'protected area', rather than leaving it to the Minister's declaration.
13. Specific police powers are also given to Tasmanian police in the legislation (name and address demand, stop, search and seize powers), where they believe someone is committing or has committed an offence. These do not appear in the HPPA Bill, but would most likely be available in any case.
14. The Tasmanian legislation also contains clauses allowing police to issue infringement notices in respect of offences in the Act prescribed by regulation as 'infringement offences'. Infringement notices could be provided in relation to the HPPA Bill offences once passed by way of a regulation.

#### *Human Rights Implications*

15. The HPPA Bill engages, and will potentially limit, a number of human rights in the *Human Rights Act 2004* ('HRA') in relation to anti-abortion protesters: the right to freedom of movement (s13), the right to freedom of thought, conscience, religion and belief (s14), the right to peaceful assembly and freedom of association (s15) and the right to freedom of expression (s16).
16. Facilitating access to health care services (including abortion) by women engages and could be argued to improve the protection of women's rights - protection from discrimination (s8); protection of the family and children (s11); privacy (s12) and security of the person (s18).

## UNCLASSIFIED

17. Women have a number of rights in international human rights law which have not been directly adopted in the HRA including a general right to the highest attainable standard of physical and mental health under article 12 of the International Covenant on Economic, Social and Cultural Rights and article 12 of the Convention for the Elimination of All Forms of Discrimination Against Women which provides that -

“States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning”.

18. In determining whether the clear limitations on rights to assembly are compatible with the HRA, an assessment of the purpose and nature of the exclusion zone proposal would need to be undertaken.
19. As the HPPA Bill is not a Government Bill, it is not subject to the same pre-legislative scrutiny processes, normally requiring you satisfy yourself that a bill is consistent with Human Rights.
20. Subject to the consideration of this issue in the ACT context and the views of ACT stakeholders to inform an evidence base, it is likely that such legislation could be justifiable and therefore compatible with the HRA.
21. An indicative consideration of the human rights issues in the ACT context is at Attachment D.

#### *Constitutional issues*

22. There is also a broader question of whether this legislation or specific provisions, might be considered unconstitutional for breaching the implied freedom of political communication.
23. In considering this question similar proportionality considerations as arise under the HRA test arise. A preliminary assessment by Eleanor Jones, a Sydney Law School academic (Attachment E) found that the Tasmanian legislation may infringe the implied Constitutional freedom of political communication by prohibiting benign protest (e.g. silent prayer). However, this may not be the case for prohibition of harassment/offensive communication.  
*Conclusion – further HRA consideration and Solicitor-General advice required*
24. Consultation with the ACT Health Directorate, ACT Policing, the DPP and the Human Rights Commission ('HRC') is necessary to determine whether the HPPA Bill strikes an appropriate and proportionate balance between the rights to protest and rights to privacy.
25. The Solicitor-General's views on the constitutional issues are being sought.

#### **Financial Implications**

26. Nil.

#### **JACS Directorate and Cross Directorate Consultation**

27. Consultation with Police and the Director of Public Prosecutions would be necessary to determine the enforceability of the offences in the HPPA Bill.
28. The Solicitor-General's preliminary views on the Bill have been sought.

UNCLASSIFIED

## UNCLASSIFIED

29. The HRC has provided advice to your office separately. That advice raised similar considerations as discussed in this brief. The HRC concluded that the HPPA Bill was 'appropriately circumscribed' and would be compatible with human rights, subject to some refinements to the standard of belief for declaring a protected area, and the restriction on filming in the protected area. The HRC advice did not address the constitutional issues.

**Next steps**

30. Consideration of the HPPA at the Social Inclusion and Equality subcommittee of Cabinet may assist to develop a Government position on it. We suggest you consider raising this matter at the subcommittee under cover of an Information Cabinet submission prepared by Justice and Community Safety (JACS) Directorate.

**External Consultation**

31. This is an internal matter.

**Benefits/Sensitivities**

32. The Opposition Leader, Jeremy Hanson MLA is reported as opposing exclusion zone laws in the *Canberra Times* article.

**Media Implications**

33. Media attention is anticipated in relation to the government's response to the HPPA. Media materials will be provided to your office on request.

UNCLASSIFIED

**Recommendations**

That you:

1. note that a advice is being sought from the Solicitor-General as to the constitutionality of the HPPA;

**Noted/ Please Discuss**

2. agree that JACS undertake further consultation with the Health Directorate, ACT policing, the DPP and the Human Rights Commission, to ascertain and consider the scope of proposed prohibited conduct to better inform the HRA implications; and

**Agreed/Not Agreed/ Please Discuss**

3. agree to progress the Bill to Cabinet's subcommittee on Social Inclusion and Equality by way of an Information Cabinet submission.

**Agreed/Not Agreed/ Please Discuss**

Simon Corbell MLA ..... /...../.....

Minister's Comments

7-7-15

Signatory Name:	Julie Field	Phone:	70522
Title:	Executive Director, LPP		
Date:	1 July 2015		
Action Officer:	Alex Jorgensen	Phone:	70534

UNCLASSIFIED

# Comment:

## Implementing Protest-free Zones around Abortion Clinics in Australia

Eleanor Jones\*

---

### Abstract

This article considers the ‘Access Zones’ provisions of the *Reproductive Health (Access to Terminations) Act 2013* (Tas) that implement protest-free zones around abortion clinics. It will be argued that reform designed to insulate the public space around abortion clinics from political debate is well intentioned, but constitutionally dubious. Such provisions squarely confront the current division of the High Court on the issue of whether offensive political communication that is not likely to provoke a violent or actual breach of the peace can be legitimately burdened in the name of upholding ‘public order’ and ‘contemporary standards’ alone. Although it is not entirely clear how such a challenge would be received, it is evident that the questionable constitutionality of protest-free zones around abortion clinics provides a likely vehicle for High Court consideration of these issues.

### I Introduction

I respect that each of us are entitled to our views. What I do not respect is the manner in which some people choose to express them.<sup>1</sup>

An understandable sense of discomfort and affliction is aroused when women seeking an abortion are forced to endure a public critique of their lawful choice in the form of a picket line. The same is true of political protests that target the families of deceased soldiers.<sup>2</sup> Having disavowed ‘political correctness’ throughout the 1990s,<sup>3</sup> Australia is now witnessing divergence between its commitment to robust, occasionally acrimonious, political debate and its commitment to tolerant and civil public discourse. The existence of a constitutionally implied right to freedom of political communication is accepted.<sup>4</sup> However, the High Court is divided on whether this necessitates acceptance and tolerance of offensive or

---

\* Eleanor Jones (BA Hons) is a final year LLB student at Sydney Law School. The author thanks Associate Professor David Rolph for his willingness to provide guidance and direction.

<sup>1</sup> Tasmania, *Parliamentary Debates*, House of Assembly, 16 April 2013, 24–87 (Michelle O’Byrne, Minister for Health).

<sup>2</sup> See generally *Monis v The Queen* (2013) 87 ALJR 340, 388 [238] (Heydon J) (‘*Monis*’).

<sup>3</sup> Davinder Pal Ahluwalia and Greg McCarthy, ‘“Political Correctness”: Pauline Hanson and the Construction of Australian Identity’ (1998) 57 *Australian Journal of Public Administration* 79, 82–4.

<sup>4</sup> See generally Leslie Zines, *The High Court and the Constitution* (Federation Press, 5<sup>th</sup> ed, 2008) 521–7, 531–43.

hurtful political communication.<sup>5</sup> In 2013, Heydon J concluded that the current Court's allowance of 'sadistic, wantonly cruel and deeply wounding blows'<sup>6</sup> in the name of free political communication is evidence that the implied freedom was a 'noble and idealistic enterprise, which has failed, is failing and will go on failing'.<sup>7</sup>

Protests outside abortion clinics are poised to become the next example of political communication that is objectionable to a majority of Australians, but nonetheless protected from regulation by the freedom of political communication.<sup>8</sup> There is a 'longstanding public consensus and legislative settlement on abortion in Australia'.<sup>9</sup> Opinion polls consistently reveal that a sizeable majority of Australians believe that abortion services should be legally and easily accessible.<sup>10</sup> Countries of a similar disposition have implemented protest-free zones around abortion clinics to protect patients from intimidation and humiliation at the hands of anti-abortion protesters.<sup>11</sup> The *Reproductive Health (Access to Terminations) Act 2013* (Tas) ('RHATA') provides a model for the creation of protest-free zones in Australian jurisdictions. This Act prohibits the 'besetting, harassing, intimidating, interfering with, threatening, hindering, obstructing or impeding' of any person and the making of any protest 'in relation to terminations' within 150 metres of an abortion clinic.<sup>12</sup> This article examines the necessity, validity and constitutionality of these provisions.

Part II canvasses the background and context of the RHATA. In pt III, the expected constitutional challenge to the 'Access Zones' clause will be discussed in light of freedom of political communication. This discussion draws on First Amendment jurisprudence from the United States. Although many have warned that American authorities are of little assistance,<sup>13</sup> the United States Supreme Court has heard eight constitutional challenges to variously sized buffer zones precluding protests outside abortion clinics. Such decisions provide a 'useful illumination' of the principles involved.<sup>14</sup> The United States Supreme Court has accepted prohibitions on approaching within 2.5 metres of a clinic patient<sup>15</sup> and has upheld

<sup>5</sup> In *Monis* (2013) 87 ALJR 340, the High Court divided 3:3 on the constitutionality of the *Criminal Code* (Cth) s 471.12, which prohibits use of the postal services in a way that reasonable persons would regard as offensive. French CJ, Hayne and Heydon JJ upheld the appeal: at 362 [73], 384 [214], 391 [251]. Crennan, Kiefel and Bell JJ dismissed the appeal: at 391 [352].

<sup>6</sup> *Monis* (2013) 87 ALJR 340, 388 [241] (Heydon J).

<sup>7</sup> *Ibid* 391 [251] (Heydon J).

<sup>8</sup> *Ibid* 367 [104] (Hayne J).

<sup>9</sup> Kate Gleeson, 'Tony Abbott and Abortion: Miscalculating the Strength of the Religious Right' (2011) 46 *Australian Journal of Political Science* 473, 485.

<sup>10</sup> Katharine Betts, 'Attitudes to Abortion in Australia: 1972 to 2003' (2004) 12 *People and Place* 22, 23. See generally Barbara Baird, 'Abortion Politics during the Howard Years: Beyond Liberalisation' (2013) 44 *Australian Historical Studies* 245, 248.

<sup>11</sup> See, eg, *Access to Abortion Services Act*, RSBC 1996, c 1, s 2; *Freedom of Access to Clinic Entrances Act*, 18 USC § 248 (1994).

<sup>12</sup> RHATA s 9.

<sup>13</sup> *Levy v Victoria* (1997) 189 CLR 579, 594, 598 (Brennan CJ) ('Levy'); *Monis* (2013) 87 ALJR 340, 404 [326]. See generally William Buss, 'Constitutional Words about Words: Protected Speech and Fighting Words under the Australian and American Constitutions' (2006) 15 *Transnational Law & Contemporary Problems* 489, 494.

<sup>14</sup> *APLA Ltd v Legal Services Commissioner NSW* (2005) 224 CLR 322, 358; *Australian Capital Television v Commonwealth* (1992) 177 CLR 106, 240–1.

<sup>15</sup> *Hill v Colorado*, 530 US 703, 729 (2000).

modest buffer zones (4.5 metres) around abortion clinic entrances.<sup>16</sup> Accepting the common thesis that America's freedom of speech is more expansive than Australia's implied freedom of political communication,<sup>17</sup> it appears unlikely that the Australian High Court would strike down the *RHATA* in its entirety to allow an unfettered right to protest outside abortion clinics. This article discusses what restrictions on these protests the High Court might accept and how such restrictions could be reconciled with the freedom of political communication.

## II Background to the Reform

Accessing abortion services in Tasmania has been comparatively more difficult than in other Australian states.<sup>18</sup> Prior to 2013, abortion was criminalised,<sup>19</sup> unless the woman had obtained written certifications from two medical practitioners and had met a standard of 'informed consent', which required the patient to have been counselled on her options, including carrying the pregnancy to term.<sup>20</sup> Notably, between 1985 and 2000, more than a third of Tasmanians who underwent abortion procedures under the Medicare Benefits Schedule did so outside of Tasmania.<sup>21</sup> This fact has concerned the Tasmanian Parliament.<sup>22</sup> The *RHATA* is thus appropriately understood as a reform to liberalise access to abortion services.<sup>23</sup> This includes the erection of 'Access Zones' around clinics to prevent women feeling ashamed or stigmatised.<sup>24</sup> Relevantly, three types of behaviour are prohibited in these 150-metre zones: (a) besetting, harassing, intimidating, threatening and obstructing a person, (b) any 'protest' relating to abortions, and (c) graphically recording a patient attempting to access the clinic.<sup>25</sup>

Although anecdotal evidence of intimidation and harassment was heard by the inquiry into the *RHATA*,<sup>26</sup> abortion clinic protests are not an endemic feature of the Tasmanian, or Australian, political landscape. A small number of isolated illegal protests have been documented in Australia, the most infamous of which

<sup>16</sup> *Schenck v Pro-Choice Network of Western New York*, 519 US 357, 380 (1997) ('*Schenck*').

<sup>17</sup> *Levy* (1997) 189 CLR 579, 641 (Kirby J).

<sup>18</sup> See generally, Baird, above n 10, 254–5; Mark Rankin, 'Recent Developments in Australian Abortion Law: Tasmania and the Australian Capital Territory' (2003) 29 *Monash University Law Review* 316, 320.

<sup>19</sup> *Criminal Code Act 1924* (Tas) s 134. This provision was repealed by the *RHATA* s 14(f).

<sup>20</sup> *Criminal Code Act 1924* (Tas) s 164. This provision was repealed by the *RHATA* s 14(g). The *RHATA* requires that medical practitioners performing terminations after 16 weeks of pregnancy obtain the 'woman's consent' and 'consult with another medical practitioner': s 5(1).

<sup>21</sup> Carolyn Nickson, Julia Shelly and Anthony Smith, 'Use of Interstate Services for the Termination of Pregnancy in Australia' (2002) 26 *Australian and New Zealand Journal of Public Health* 421, 423.

<sup>22</sup> Tasmania, *Parliamentary Debates*, Legislative Council, 20 December 2001, 1–3 (Lin Thorp); Tasmania, *Parliamentary Debates*, House of Assembly, 16 April 2013, 24–87 (Jeremy Rockliff).

<sup>23</sup> See, eg, *RHATA* s 8. The *RHATA* also broadens the considerations relevant to a medical practitioner's certification of the abortion: s 5(2). The *RHATA* imposes an obligation on doctors, counsellors and nurses to provide details of where information about terminations can be accessed and, where applicable, to perform emergency terminations, irrespective of any conscientious objection to the procedure: ss 7(2), 6(3).

<sup>24</sup> Tasmania, *Parliamentary Debates*, House of Assembly, 16 April 2013, 24–87 (Michelle O'Bryne).

<sup>25</sup> *RHATA* s 9(1) (definition of 'Prohibited Behaviour' (a)–(d)).

<sup>26</sup> Evidence to Government Administration Committee, Legislative Council of Tasmania, Hobart, 29 July 2013, 7 (Caroline de Costa).

involved the murder of a security guard at Melbourne's Fertility Control Clinic in July 2001.<sup>27</sup> By comparison, more than 70 000 anti-abortion protesters were reportedly arrested at American abortion clinics between 1987 and 1993.<sup>28</sup> The intensity of these protests overwhelmed traditional police resources, thereby justifying protest-free zones as a means of prevention.<sup>29</sup> Such an impetus does not exist in Australia and, arguably, current protests could be responded to by using existing causes of action.

There is an argument open to abortion clinics that these protests represent a public nuisance.<sup>30</sup> 'Unreasonable or excessive obstruction' of roadways,<sup>31</sup> and protests that beset those who wish to pass, may constitute acts of public nuisance.<sup>32</sup> 'Besetting' here means to 'set about or surround with hostile intent', causing the passer-by to 'hesitate through fear to proceed or, if they do proceed, to do so only with fear for their safety'.<sup>33</sup> Animal-rights activists protesting a circus were found to create a public nuisance by 'lining up so as to compel would-be patrons to "walk the gauntlet" of shouting picketers'.<sup>34</sup> However, such behaviour must be distinguished from that of protesters merely attempting to communicate their point of view to a passing person.<sup>35</sup> Importantly, besetting conduct is assessed relative to the sensibilities of its targets.<sup>36</sup> Besetting a woman outside an abortion clinic, when it might reasonably be assumed that she is vulnerable or could be easily distressed, would make a finding of public nuisance more likely.

Injunctive relief can offer a remedy of a similar scope to the 'Access Zones' provisions. Following instances of trespass, in 1986 Murray J in the Victorian Supreme Court granted an injunction to restrain Right to Life Victoria from standing within three metres of the footpaths surrounding the Royal Women's

<sup>27</sup> *R v Knight* [2002] VSC 498 (19 November 2002). See generally Rebecca Dean and Susie Allanson, 'Abortion in Australia: Access versus Protest' (2004) 11 *Journal of Law and Medicine* 510, 511; Jo Morgan, 'US Hate Crime Legislation: A Legal Model to Avoid in Australia' (2002) 38 *Journal of Sociology* 25, 35.

<sup>28</sup> Tara Kelly, 'Silencing the Lambs: Restricting the First Amendment Rights of Abortion Clinic Protestors in *Madsen v Women's Health Centre*' (1995) 68 *Southern California Law Review* 427, 429–30. See generally *National Organisation for Women Inc v Scheidler*, 510 US 249 (1994).

<sup>29</sup> *Schenck*, 519 US 357, 363–4 (1997).

<sup>30</sup> See generally *Australian Builders' Labourers' Federated Union of Workers (WA) v J-Corp Pty Ltd* (1993) 42 FCR 452, 456–8. The Attorney-General has standing to commence a civil proceeding for public nuisance on behalf of the public: *Attorney-General v PYA Quarries Ltd* [1957] 2 QB 169, 190–1. If a private plaintiff has suffered 'particular injury to himself beyond that which is suffered by the rest of the public' (as is arguably true of the relevant abortion clinics) that private plaintiff will also have standing in respect of that public nuisance: *Benjamin v Storr* (1874) LR 9 CP 400, 406; *Transurban City Link v Allan* (1999) 57 ALD 581, 591; *Walsh v Ervin* [1952] VLR 361, 371. See also *Criminal Code Act 1924* (Tas) ss 140–1.

<sup>31</sup> *McFadzean v Construction, Forestry, Mining and Energy Union* (2007) 20 VR 250, 282.

<sup>32</sup> *Ibid* 282–3.

<sup>33</sup> *Dollar Sweets Pty Ltd v Federated Confectioners Association of Australia* [1986] VR 383, 388 (Murphy J).

<sup>34</sup> *Animal Liberation (Vic) Inc v Gasser* [1991] 1 VR 51, 59. See also *Barloworld Coatings (Aust) Pty Ltd v Australian Liquor, Hospitality & Miscellaneous Workers Union* (2001) 108 IR 107, 112 [16] ('*Barloworld*').

<sup>35</sup> *Barloworld* (2001) 108 IR 107, 112 [16].

<sup>36</sup> *Animal Liberation (Vic) Inc v Gasser* [1991] 1 VR 51, 59.



Hospital.<sup>37</sup> The practicalities of this restriction do not appear to have been of particular concern: 'It seems to me that anyone who wants to stand either with shoe-box coffins or handing out leaflets 3 metres out from the gutter would do so at his own risk.'<sup>38</sup> Although of little assistance in preventing the protests themselves, individual women might also seek to protect their identity or the revelation of their patient status by means of a claim of breach of privacy<sup>39</sup> or confidence.<sup>40</sup> The status of such a claim in Australia is uncertain but it has been accepted that information relating to a woman's abortion is information of a 'purely personal nature'.<sup>41</sup> A statutory offence for breaching privacy is applicable in Tasmania, if accessing an abortion clinic is characterised as a 'private act'.<sup>42</sup> Other criminal offences, such as public annoyance,<sup>43</sup> or organising a public demonstration without a permit,<sup>44</sup> also allow some opportunity for police intervention and therefore control over these protests, albeit not to the same degree as the strict prohibition in the *RHATA*.

The sufficiency of the existing means of regulating protests formed the basis of some arguments against the *RHATA*.<sup>45</sup> The prospect of a constitutional challenge to the protest-free zones was also clearly of concern to the Government Administration Committee.<sup>46</sup>

### III Protest-free Zones and the Implied Freedom of Political Communication

Freedom to communicate in relation to political and governmental matters is a necessary incident of the constitutionally prescribed system of representative and responsible government in Australia.<sup>47</sup> The requirement of democratic elections

<sup>37</sup> *Royal Women's Hospital v Right to Life Victoria* [1986] VSC 246 (5 June 1986) 4 (Murray J). See also *Healy v Right to Life Victoria* [1987] VSC 29 (12 February 1987).

<sup>38</sup> *Royal Women's Hospital v Right to Life Victoria* [1986] VSC 246 (5 June 1986) 3 (Murray J). Cf *Schenck*, 519 US 357, 378 (1997).

<sup>39</sup> The possibility of a tort for the invasion of privacy has been recognised: *Australian Broadcasting Corporation v Lenah Game Meats Pty Ltd* (2001) 208 CLR 199, 328, 278. However, it is unlikely to be upheld where alternative causes of action exist, as is the case here: *Doe v Australian Broadcasting Corporation* [2007] VCC 281 (3 April 2007) [148], [150].

<sup>40</sup> *Campbell v MGN Ltd* [2004] 2 AC 457 indicates that photographs taken, even in a public street, that convey information of an 'essentially private nature' may form the basis of a breach of confidence: at 468. An obligation of confidence can arise where the recipient of information 'ought to know' the information is confidential or private: at 465. Such an obligation may arise where obviously confidential information is inadvertently revealed in a public place: *Attorney-General v Guardian Newspapers Ltd (No 2)* [1990] 1 AC 109, 281. Whether there is an expectation of privacy attached to conduct observable from a public place, such that the information of that conduct would be confidential, is unclear under Australian law.

<sup>41</sup> *Royal Women's Hospital v Medical Practitioners Board of Victoria* (2006) 15 VR 22, 35, 36.

<sup>42</sup> *Police Offences Act 1935* (Tas) s 13A.

<sup>43</sup> *Ibid* s 13.

<sup>44</sup> *Ibid* s 49AB.

<sup>45</sup> Evidence to Government Administration Committee, Legislative Council of Tasmania, Hobart, 29 July 2013, 13 (Michael Stokes).

<sup>46</sup> Evidence to Government Administration Committee, Legislative Council of Tasmania, Hobart, 19 August 2013, 74–6. Cf Evidence to Government Administration Committee, Legislative Council of Tasmania, Hobart, 30 July 2013, 5 (Terese Henning).

<sup>47</sup> *Lange v Australian Broadcasting Corporation* (1997) 189 CLR 520, 560 ('Lange').

provides little guidance as to what those elections and the attendant political debate should look like.<sup>48</sup> Given the vast array of issues that could possibly impact the exercise of one's vote at an election, the parameters of the political communication impliedly protected by the *Constitution* remains open to argument. The High Court's focus on the textual implication of the freedom has often obscured explicit enunciation of these limits.<sup>49</sup> However, two different judicial conceptions of political debate have emerged from recent cases:<sup>50</sup> one that accepts 'unreasonable, strident, hurtful and highly offensive communications' as part of 'robust' political debate,<sup>51</sup> and the other that strives for a civil, accessible and rational discourse.<sup>52</sup> Importantly, neither conception is 'obviously required or excluded' by the *Constitution*.<sup>53</sup> Given the difficulty in substantiating the content of the implied freedom and the High Court's near even split on the question of whether offensive communication falls within it, this article concedes that the prospective constitutionality of the *RHATA* is uncertain. However, it is clear that any challenge to the implementation of protest-free zones around abortion clinics would allow the High Court an important opportunity to mediate these conflicting positions and to shed further light upon the type of debate that the implied freedom of political communication serves to protect.

The test of whether the freedom of political communication has been impermissibly infringed involves three stages of enquiry.<sup>54</sup> First, it is necessary to characterise the burden upon political communication, whether direct or indirect.<sup>55</sup> Second, the purpose or object of the law must be ascertained to determine whether that purpose is legitimate in the sense of being 'compatible with the maintenance of the constitutionally prescribed system of representative and responsible government'.<sup>56</sup> Finally, it must be established that the provisions are 'reasonably appropriate and adapted to achieving that legitimate object or end'.<sup>57</sup> Where political communication has been burdened directly, this enquiry may take the

<sup>48</sup> See Adrienne Stone, 'The Limits of Constitutional Text and Structure Revisited' (2005) 28 *University of New South Wales Law Journal* 842, 846–9.

<sup>49</sup> See, eg, *McGinty v Western Australia* (1996) 186 CLR 140, 168 (Brennan CJ), 182–3 (Dawson J), 231–3 (McHugh J); *Lange* (1997) 189 CLR 520, 557. See generally Zines, above n 4, 551; Adrienne Stone, 'Australia's Constitutional Rights and the Problem of Interpretive Disagreement' (2005) 27 *Sydney Law Review* 29, 43.

<sup>50</sup> Adrienne Stone, 'Insult and Emotion, Calumny and Inveective: Twenty Years of Freedom of Political Communication' (2011) 30 *University of Queensland Law Journal* 79, 90.

<sup>51</sup> *Monis* (2013) 87 ALJR 340, 361 [67] (French CJ).

<sup>52</sup> *Coleman v Power* (2004) 220 CLR 1, 6 (Gleeson CJ), 90 (Callinan J), 100 (Heydon J) ('*Coleman*').

<sup>53</sup> Stone, above n 50, 90.

<sup>54</sup> *Monis* (2013) 87 ALJR 340, 359 [61] (French CJ).

<sup>55</sup> *Ibid* 367 [108] (Hayne J). The distinction between direct and indirect burdens upon political communication has re-emerged in recent jurisprudence: *Hogan v Hinch* (2011) 243 CLR 506, 555–6; *A-G (SA) v Corporation of the City of Adelaide* (2013) 87 ALJR 289, [217] (Crennan and Kiefel JJ) ('*A-G (SA) v Adelaide*'); *Monis* (2013) 87 ALJR 340, 409 [352] (Crennan, Kiefel and Bell JJ). This distinction is said to be most relevant to the stringency of the 'appropriate and adapted' test. Here, the distinction will also be discussed in the course of characterising the burden that protest-free zones would place upon political communication.

<sup>56</sup> *Lange* (1997) 189 CLR 520, 562.

<sup>57</sup> *Ibid*.

stricter form of whether the provision is ‘necessary for the attainment of some overriding public purpose’.<sup>58</sup>

### *A Would Protest-free Zones Burden Political Communication?*

In order to burden political communication, the *RHATA* would need to infringe activities that are both communicative and political. This infringement may be merely incidental, depending on whether the provision ‘specifically target[s] communication’ as its ‘direct purpose’.<sup>59</sup> The Access Zones implement a content-based prohibition on communication that relates to the issue of terminations but only within a specified area.<sup>60</sup> This poses the question: is it the communication itself or the location of the communication that is the specific target of the prohibition?

Because the implied freedom protects ‘communication’ generally, the communicative value of speech and conduct has not been thoroughly distinguished.<sup>61</sup> Nonetheless, it has been thought that regulations relating to the time, location and manner of political communication do not specifically target or directly burden political communication, but rather constrict the conduct associated with it.<sup>62</sup> The High Court has accepted that restrictions on movement, for example, may rob an individual of the opportunity to make their protest ‘in a manner which would have achieved maximum’ effect.<sup>63</sup> It has also been acknowledged that the form of communication may be ‘neither incidental nor accidental’ to its meaning: ‘the greater the insult, the more effective the attack may be’.<sup>64</sup> Regulating the delivery of the communication, such as whether it takes the form of an insult, is therefore difficult to divorce from regulation of the communication itself. And yet restrictions as to location and form of communication in these cases were construed as mere incidental or indirect burdens.<sup>65</sup>

The proposition that regulating conduct only indirectly burdens communication is difficult to maintain where the regulated conduct achieves, or at least influences, an overall communicative purpose. Emerson has argued that, where the predominant purpose of conduct is communicative, regulation of that conduct should be seen as a direct burden upon communication:

<sup>58</sup> *Levy* (1997) 189 CLR 579, 619 (Gaudron J). See also *Cunliffe v Commonwealth* (1994) 182 CLR 272, 299–300, 337–9; *Coleman* (2004) 220 CLR 1, 102 (Heydon J); *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 337 [217] (Crennan and Kiefel JJ).

<sup>59</sup> *Levy* (1997) 189 CLR 579, 619 (Gaudron J), 645 (Kirby J).

<sup>60</sup> *RHATA* (Tas) s 9(1) (definition of ‘Prohibited Behaviour’ (b)).

<sup>61</sup> *Levy* (1997) 189 CLR 579, 594–5 (Brennan CJ).

<sup>62</sup> See, eg, *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 306 [46] (French CJ), 338 [219] (Crennan and Kiefel JJ); *Monis* (2013) 87 ALJR 340, 409 [352] (Crennan, Kiefel and Bell JJ).

<sup>63</sup> *Levy* (1997) 189 CLR 579, 609 (Dawson), 613–14 (Toohey and Gummow JJ), 623–5 (McHugh J), 636 (Kirby J).

<sup>64</sup> *Monis* (2013) 87 ALJR 340, 364 [85] (Hayne J).

<sup>65</sup> See, eg, *O’Flaherty v City of Sydney Council* (2013) 210 FCR 484, 497–8 (‘O’Flaherty’); *Coleman* (2004) 220 CLR 1, 10, 101–2; *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 338 [219] (Crennan and Kiefel JJ); *Monis* (2013) 87 ALJR 340, 409 [352] (Crennan, Kiefel and Bell JJ).

The burning of a draft card is, of course, conduct that involves both communication and physical acts. Yet it seems quite clear that the predominant element in such conduct is expression (opposition to the draft) rather than action (destruction of a piece of cardboard).<sup>66</sup>

However, Hart Ely suggests that this approach constructs an ontological dilemma as the burning of a draft card:

involves no conduct that is not at the same time communication and no communication that does not result from conduct. Attempts to determine which element 'predominates' ... [are] question-begging judgments about whether the activity should be protected.<sup>67</sup>

If the predominant purpose of a protest is to persuade through communication, then regulation of a protest's location incidentally burdens the communication. If the location of the protest is itself communicative, then its regulation directly burdens that communication. The parliamentary consideration of the Access Zones provisions acknowledged that the latter is true of abortion clinic protests because even silent vigils, absent communication, are transformed into 'expression[s] of disapproval' by virtue of their location outside clinics.<sup>68</sup>

The High Court has acknowledged that individuals' conduct by means of their movement and association is facilitative of their freedom of communication.<sup>69</sup> 'Freedom of political communication depends on human contact and entails at least a significant measure of freedom to associate with others ... [This] necessarily entails freedom of movement.'<sup>70</sup> Political communication will be burdened when citizens are 'held in enclaves, no matter how large the enclave or congenial its composition'<sup>71</sup> and no matter how readily they can communicate within that particular enclave.<sup>72</sup> Given this acknowledgment, the current assumption that the regulation of the location of protests indirectly burdens communication is unsatisfactory.<sup>73</sup> In determining whether communication is *effectively* burdened, one must look to the 'practical effect' of the law.<sup>74</sup> The creation of protest-free zones prohibits certain communication, defined by its content, being voiced in a forum that produces a particular message communicated specifically to women accessing abortions. That this communication could be replicated elsewhere, albeit less effectively, does not necessarily suggest that the

<sup>66</sup> Thomas Emerson, *The System of Freedom of Expression* (Random House, 1970) 84.

<sup>67</sup> John Hart Ely, 'Flag Desecration: A Case Study in the Role of Categorization and Balancing in First Amendment Analysis' (1975) 88 *Harvard Law Review* 1482, 1495–6. For a study of the variability of these judgments, see generally Rachel Entman, 'Picket Fences: Analyzing the Court's Treatment or Restrictions on Polling, Abortion and Labor Picketers' (2001) 90 *Georgetown Law Journal* 2581.

<sup>68</sup> Tasmania, *Parliamentary Debates*, House of Assembly, 16 April 2013, 24–87 (Michelle O'Bryne).

<sup>69</sup> *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106, 212 (Gaudron J); Zines, above n 4, 532; *Kruger v Commonwealth* (1997) 190 CLR 1, 91–2 (Toohey J), 115 (Gaudron J), 142 (McHugh J) ('*Kruger*'), cf 70 (Dawson J).

<sup>70</sup> *Kruger* (1997) 190 CLR 1, 115 (Gaudron J).

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid* 116, 125.

<sup>73</sup> *O'Flaherty* (2013) 210 FCR 484, 497–8; *Levy* (1997) 189 CLR 579, 608–9 (Dawson J), 613–14 (Toohey and Gummow JJ), 623–5 (McHugh J), 636 (Kirby J).

<sup>74</sup> *Monis* (2013) 87 ALJR 340, 367 [108] (Hayne J).

burden upon this communication is indirect. If we are to construe protest-free zones around abortion clinics realistically, it is clear that their ‘purpose and design ... as its own defenders urge in attempted justification — [is] to restrict speakers on one side of the debate’.<sup>75</sup> Although the decision in similar circumstances in *Levy* concluded otherwise, such a law is aptly described as directly burdening free communication, notwithstanding its ostensible focus on the mere location of that communication.<sup>76</sup>

It is also necessary to consider whether the content of the communication should rightly be considered political. The regulation of abortion services and clinics is a matter for state governments. Nonetheless, it is now accepted that such issues influence national politics, especially because the Commonwealth allocates funding for state services.<sup>77</sup> It has been directly accepted that ‘abortion is a sensitive political matter’,<sup>78</sup> and that religious or moralising speech ought to be considered political communication.<sup>79</sup> Thus, it is relatively settled that discussion of the issue of abortion constitutes communication relating to political and government matters.

Although abortion clinic protests would tend to engage political issues in their content, there may be circumstances in which the context of speech robs it of political character. In *Coleman*, the Court entertained, but ultimately rejected, an argument that a ‘personal campaign’ against a private figure may fall outside the realm of political and governmental matters.<sup>80</sup> Crennan, Kiefel and Bell JJ accepted in *Monis* that a law may validly burden political communication that intrudes into the ‘personal domain’ but their Honours did not address whether the personalised form of that communication removed the political character of its content.<sup>81</sup> This proposition must surely be true in some circumstances. For example, the United States Supreme Court upheld a by-law precluding anti-abortion protesters from picketing the residential house of an abortion provider because the protest did not seek to ‘disseminate a message to the general public’ and therefore was not protected speech.<sup>82</sup> Conversely, the personalised insults displayed by the Westboro Baptist Church at Matthew Snyder’s funeral (‘You’re Going to Hell’, ‘God Hates You’) were protected because ‘the overall thrust and dominant theme of Westboro’s demonstration spoke to broad public issues’.<sup>83</sup> The distinction is a fine one and is again influenced by whether the content or the context of the speech is deemed most important.

Some have argued that personalised attacks do not require constitutional protection because they will not impact and are not necessary to political debate.<sup>84</sup>

<sup>75</sup> *Hill v Colorado*, 530 US 703, 768 (Kennedy J) (2000).

<sup>76</sup> *Levy* (1997) 189 CLR 579, 618, 620 (Gaudron J).

<sup>77</sup> *Hogan v Hinch* (2011) 243 CLR 506, 543, 544 (French CJ).

<sup>78</sup> *Re Sublime Pty Ltd and Australian Communications and Media Authority* (2010) 115 ALD 239, 242.

<sup>79</sup> *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 312 [67] (French CJ).

<sup>80</sup> *Coleman* (2004) 220 CLR 1, 1–2, 11, 25–6. See also *Monis* (2013) 87 ALJR 340, 389 [242] (Heydon J).

<sup>81</sup> *Monis* (2013) 87 ALJR 340, 403 [320], 404 [324] (Crennan, Kiefel and Bell JJ).

<sup>82</sup> *Frisby v Schultz*, 487 US 474, 486 (1988).

<sup>83</sup> *Snyder v Phelps*, 131 S Ct 1207, 1217 (Roberts CJ) (2011) (‘*Westboro Baptist Church Case*’).

<sup>84</sup> See, eg, *Westboro Baptist Church Case*, 131 S Ct 1207, 1228–9 (Alito J) (2011).

This proposition has some appeal: if the freedom of political communication is an incident of the constitutional system of government, its application should arguably be instrumental to that end and need only protect communication likely to shed light on political matters in the mind of an elector.<sup>85</sup> The state appellate courts have variously considered this argument in relation to anti-vilification laws. Adopting the opposite conclusion to New South Wales,<sup>86</sup> the Victorian<sup>87</sup> and Queensland Courts of Appeal have voiced support for the argument that anti-vilification laws do not burden the implied freedom because political communication can be 'sufficiently free' without victimising minority groups.<sup>88</sup> The same may be said of abortion clinic protests: political debate about abortion can operate freely without personally addressing women accessing abortions. There is obvious truth in the statement that some political communication is not 'an essential part of any exposition of ideas', is of 'slight social value' and is 'so unreasonable, so irrational ... not [to] assist the electors to an informed or true choice'.<sup>89</sup> Ultimately, the question of whether Australian governance would continue to operate satisfactorily in the absence of the proscribed speech is 'too large and diffuse an inquiry' to be accepted as the test for defining the parameters of protected communication.<sup>90</sup>

To illustrate this point, when considering whether the sending of graphic pictures of aborted fetuses to chemist shops that stocked the 'morning-after pill' was a defensible form of political protest, a United Kingdom court commented:

The most that [the defendant] could have hoped to achieve was to persuade those responsible in the pharmacies ... to stop selling the 'morning after pill' ... It is difficult to see what contribution this would make to any public debate.<sup>91</sup>

Yet anti-abortion protesters would consider a marginal reduction in the availability of the morning-after pill to be a victory consistent with their political aim of reducing the use of that drug. Thus, a test that defines communication as political only where it is useful, effective or influential for public debate will exclude a great deal of communication on the basis of a generalised judgment as to how persuasive the communication is. This will generate disproportionate protections for the 'mainstream of political discourse' because, by definition, minority opinions are less likely to have an impact of political debate.<sup>92</sup> Consequently, the *RHATA* and protest-free zones around abortion clinics generally are likely to burden political communication. There is reason to believe that this burden would operate as a direct restriction on communication. The Access Zones target speech because of its content and regulate conduct that is facilitative of that message. At the least, the freedom of political communication is burdened

<sup>85</sup> *Coleman* (2004) 220 CLR 1, 104 (Heydon J).

<sup>86</sup> *Sunol v Collier* (2012) 289 ALR 128, 138.

<sup>87</sup> *Catch the Fire Ministries Inc v Islamic Council of Victoria Inc* (2006) 206 FLR 56, 68 [34], 118 [210].

<sup>88</sup> The Court ultimately followed New South Wales authority in concluding that political communication was burdened: *Owen v Menzies* (2012) 265 FLR 392, 395 (de Jersey CJ), 415–16 (McMurdo P).

<sup>89</sup> *Chaplinsky v New Hampshire*, 315 US 568, 572 (1942); *Coleman* (2004) 220 CLR 1, 92 (Callinan J), 104, 105 (Heydon J).

<sup>90</sup> *Monis* (2013) 87 ALJR 340, 369 [119] (Hayne J).

<sup>91</sup> *Connolly v DPP* [2008] 1 WLR 276, 286 [32].

<sup>92</sup> *Monis* (2013) 87 ALJR 340, 369 [122], 377 [173] (Hayne J).

indirectly by the prohibition on protesting within the specified areas. The character of the communication ought to be considered political, regardless of its personalised content and its likely incapacity to impact the wider political debate.

Accepting that the freedom of political communication is so burdened, the possibility that this burden is enacted pursuant to, and justified by, a legitimate legislative purpose will now be considered.

### **B Does a Legitimate Purpose Justify the Implementation of Protest-free Zones?**

Upon examining the text, historical background and ‘social object’ of the legislation, a number of possible motives can be attributed to the *RHATA*.<sup>93</sup> To the extent that the Access Zones provisions seek to prevent traffic disruption, they pursue a legitimate purpose. Preventing physical obstructions, hindrances or impediments to vehicles or pedestrians trying to enter a clinic,<sup>94</sup> they are analogous to those regulations upheld in *A-G (SA) v Adelaide* as ensuring the ‘comfort, convenience and safety of other road users’.<sup>95</sup> The prohibition on ‘besetting, harassing, intimidating, interfering with [or] threatening’ persons appears to be directed towards preventing breaches of the peace.<sup>96</sup> However, given protests that do not beset, harass or intimidate are also prohibited,<sup>97</sup> a wider purpose may be attributed to the provisions in attempting to cultivate a sense of safety and comfort for women accessing abortion clinics. The legitimacy of this purpose depends upon the judicial construction of what the content of free political debate should be and, in particular, the degree of offence that must be tolerated as an unavoidable by-product.

‘Keeping public places free from violence’ falls squarely within the category of purposes that allow legislation to legitimately burden political communication.<sup>98</sup> Any communication that is ‘intended ... [or likely] to provoke unlawful, physical retaliation’ can be restricted, even where this communication relates to political matters.<sup>99</sup> Judicial analysis of whether it is legitimate to prohibit communication that does not ‘rise to the level of provoking or arousing physical retaliation or the risk of such’, but which is nonetheless offensive or harassing, is far more equivocal.<sup>100</sup> Four members of the Court in *Coleman* concluded that a carefully tailored regulation directed at ‘preventing the intimidation of participants in debates on political and governmental matters’ could be legitimate, even where a violent breach of the peace was unlikely.<sup>101</sup> Three members of the Court in

<sup>93</sup> Ibid 370 [125] (Hayne J), 403 [317] (Crennan, Kiefel and Bell JJ). For the governmental purposes said to justify similar legislation in the United States see: *Hill v Colorado*, 530 US 703, 726 (2000); *Schenck*, 519 US 357, 376 (1997).

<sup>94</sup> *RHATA* s 9(1).

<sup>95</sup> *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 335 [204] (Crennan and Kiefel JJ).

<sup>96</sup> *RHATA* s 9(1) (definition of ‘Prohibited Behaviour’ (a)).

<sup>97</sup> Ibid s 9(1) (definition of ‘Prohibited Behaviour’ (b)).

<sup>98</sup> *Coleman* (2004) 220 CLR 1, 58 (Gummow and Hayne JJ); Stone, above n 50, 88.

<sup>99</sup> *Coleman* (2004) 220 CLR 1, 58 (Gummow and Hayne JJ), 77–8 (Kirby J).

<sup>100</sup> Ibid 77 (Kirby J).

<sup>101</sup> Ibid 4 (Gleeson CJ), 34 (McHugh J), 90 (Callinan J), 100 (Heydon J), cf 56 (Gummow and Hayne JJ), 77 (Kirby J).

*Monis*<sup>102</sup> held that it may be legitimate to burden political communication where the language ‘use[d] in the place where it is spoken and in the context to whom it is spoken is contrary to contemporary standards of good public order and goes beyond what by those standards is simply an exercise of freedom to express opinions’.<sup>103</sup> In both cases, strong criticisms were voiced of these attempts to produce ‘civility of discourse’.<sup>104</sup> Australia’s ‘luxuriant tradition’ of acrimonious political debate coexists with legislative restrictions on the use of insult, vilification and intimidation.<sup>105</sup> The difficulty lies in identifying the degree of tolerance that should be expected: must we tolerate all insults that fall short of provoking a physical reaction or is there another line to be drawn?

An acknowledgment from the High Court that the peace of society can be breached without the risk or actuality of violence would be a welcome development in the jurisprudence on the freedom of political communication. It is archaic to assume that harmful political debate can only occur ‘between two persons of relatively equal power ... acculturated to respond to face-to-face insults with violence’.<sup>106</sup> The simple fact that the recipient of an insult is unlikely to respond violently should not dictate the level of offence they are expected to tolerate. The resilience of police officers in withstanding public insult may provide some justification for allowing the insult in *Coleman* to go unpunished.<sup>107</sup> It would be unjust, however, to expect an individual to withstand insult because she was unlikely to resort to violence, where that improbability was a result of her vulnerability and fear, rather than her strength and stoicism.<sup>108</sup> A pregnant woman, who is already conflicted or ashamed about accessing an abortion, might only rarely resort to violence. However, it is not clear why the democratic society envisaged by the *Constitution* would necessarily view a physical dispute between two parties disposed to physical retaliation as a more severe breach of the peace than the emotional trauma that may be inflicted upon a vulnerable party by virtue of malicious contributions to the political debate.<sup>109</sup> It can even be argued that political communication is left more free when such communication is prohibited because ‘stimulating anger or embarrassment or fear’ in political debate creates ‘obstacles to the exchange of useful communication’.<sup>110</sup>

<sup>102</sup> *Monis* (2013) 87 ALJR 340, 404 [324], 408 [349] (Crennan, Kiefel and Bell JJ). French CJ appeared to base his decision on the breadth of the offence, rather than an illegitimacy of purpose: at 362 [73].

<sup>103</sup> *Ibid* 399 [298], 400 [300] (Crennan, Kiefel and Bell JJ). See also *Coleman* (2004) 220 CLR 1, 6 (Gleeson CJ).

<sup>104</sup> *Monis* (2013) 87 ALJR 340, 382 [199], 385 [220]–[221]; *Coleman* (2004) 220 CLR 1, 58 (Gummow and Hayne JJ), 77–8 (Kirby J).

<sup>105</sup> Roger Douglas, ‘The Constitutional Freedom to Insult: The Insignificance of *Coleman v Power*’ (2005) 16 *Public Law Review* 23, 27. See also *Coleman* (2004) 220 CLR 1, 58 (Gummow and Hayne JJ), 70 (Kirby J).

<sup>106</sup> Charles Lawrence, ‘If He Hollers Let Him Go: Regulating Racist Speech on Campus’ [1990] *Duke Law Journal* 431, 454. See generally Rosalie Berger Levinson, ‘Targeted Hate Speech and the First Amendment: How the Supreme Court Should Have Decided *Snyder*’ (2013) 46 *Suffolk University Law Review* 45, 55–6.

<sup>107</sup> *Coleman* (2004) 220 CLR 1, 78 (Kirby J).

<sup>108</sup> *Ibid* 4 (Gleeson CJ).

<sup>109</sup> *Ibid* 90, 92 (Callinan J), 100 (Heydon J); *Monis* (2013) 87 ALJR 340, 389 [242] (Heydon J).

<sup>110</sup> *Coleman* (2004) 220 CLR 1, 32 (McHugh J), 103 (Heydon J).



According to this approach, it would be legitimate to burden political communication where that communication involved the ‘deliberate inflicting of serious public offence or humiliation’, ‘[i]ntimidation and bullying’<sup>111</sup> and ‘wounding ... [by] publicly insulting’ or the ‘intrusion of offensive material into ... personal domain[s]’.<sup>112</sup> There are two characteristics of abortion clinic protests that assist the argument that such protests are ‘contrary to contemporary standards’ and beyond a simple expression of opinion.<sup>113</sup> First, the concept of the ‘unwilling listener’ or ‘captive audience’ has been narrowly recognised in America as justifying a prohibition on speech where an individual has ‘no ready means of avoiding the unwanted speech’.<sup>114</sup> Although this has not specifically been adopted in Australia, French CJ alluded to it in *A-G (SA) v Adelaide*. In that case, a by-law prohibiting preaching, canvassing and haranguing in public was held to be valid because it protected ‘members of the public from gratuitous interference with their freedom to choose whether and, if so, when and where they would be subject to proselytising communications’.<sup>115</sup> Scholars have argued that medical circumstance may ‘hold pregnant women captive to abortion protesters outside of health clinics’.<sup>116</sup> This is particularly true in Tasmania, where the number of clinics providing termination services is limited. According to Children by Choice, there are only two private abortion clinics in Tasmania.<sup>117</sup> Second, the nature of abortion, as an intensely private decision, may allow scope to argue that attempting to communicate personally on this topic goes beyond the mere expression of a political opinion.<sup>118</sup> In *Monis*, intrusions into the ‘personal domain’ were considered proscribable by three of members of the Court.<sup>119</sup> Whether this ‘personal domain’ could extend from receiving mail at a private residence to walking down the street for the purpose of achieving a private course of action, such as seeking an abortion, remains to be seen.

Thus, the High Court would be asked to affirm either the broad or narrow interpretation of what is a legitimate regulation of offensive and hurtful communication. By either path, we return to the question of what political debate ought to be. Whether communication is contrary to contemporary standards is as difficult an assessment as whether communication is ‘sufficiently insulting and provocative to make reactive physical retaliation likely’.<sup>120</sup> Nonetheless, even if it remains the case that only communication likely or intending to result in violence can be regulated, some of the provisions of the *RHATA* could be read down so as to

<sup>111</sup> *Ibid* 6 (Gleeson CJ), 100 (Heydon J).

<sup>112</sup> *Monis* (2013) 87 ALJR 340, 404 [324] (Callinan, Kiefel and Bell JJ).

<sup>113</sup> *Ibid* 399 [298], 400 [300] (Crennan, Kiefel and Bell JJ).

<sup>114</sup> *Frisby v Schultz*, 487 US 474, 487 (1988).

<sup>115</sup> *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 308 [54] (French CJ).

<sup>116</sup> Leslie Gielow Jacobs, ‘Nonviolent Abortion Clinic Protests: Reevaluating Some Current Assumptions about the Proper Scope of Government Regulation’ (1996) 70 *Tulane Law Review* 1359, 1440.

<sup>117</sup> Children by Choice, *Fact Sheet: Australian Abortion Law and Practice* (19 September 2013) <<http://www.childrenbychoice.org.au/info-a-resources/facts-and-figures/australian-abortion-law-and-practice#TAS>>.

<sup>118</sup> *Monis* (2013) 87 ALJR 340, 399 [298], 400 [300] (Crennan, Kiefel and Bell JJ).

<sup>119</sup> *Ibid* 403–4 [317]–[326] (Crennan, Kiefel Bell JJ). Cf at 383 [206] (Hayne J).

<sup>120</sup> Buss, above n 13, 496.

be constitutional.<sup>121</sup> This would preserve a prohibition on verbal harassment or intimidation likely to result in physical retaliation: a significant narrowing of the application of the Access Zones.

### ***C Is the Creation of a Protest-free Zone Reasonably Appropriate and Adapted to a Legitimate Purpose?***

The *RHATA* must be appropriate and adapted to achieving the legislative purpose previously identified if the burden on political communication is to be compatible with the constitutionally prescribed system of representative and responsible government.<sup>122</sup> Whether the Access Zones, as formulated, are appropriate and adapted therefore depends on the legitimate legislative purpose accepted by the court, the uncertainty of which is canvassed above. For example, although the prevention of traffic disruptions is a legitimate purpose, not all of the provisions could be considered appropriate and adapted to that purpose. An individual respectfully handing out pamphlets on a footpath can hardly be considered a traffic disruption and yet, their actions are caught by the prohibition.<sup>123</sup> Similarly, if the legitimate purpose of the *RHATA* is the prevention of violence, the general prohibition on protests, which is not qualified by a requirement of intimidation, harassment or threats, is unlikely to be accepted as appropriate and adapted. A protest-free zone of 150 metres is excessive if its purpose is simply to prevent violence because it places a distance larger than a soccer pitch between the two individuals.<sup>124</sup> Some degree of preventative caution may be accepted if it is believed that no measure, other than complete exclusion, 'could reasonably be taken to prevent angry and probably violent confrontations' because of the 'highly emotional' nature of the interaction.<sup>125</sup> However recent cases suggest that provisions directed towards maintaining public order will only be upheld where they are qualified. For example, while McHugh J was willing to accept the prevention of intimidation as a legitimate purpose, his Honour commented that such provisions ought to be qualified, at least, by an intention on the part of the speaker to intimidate.<sup>126</sup> Equally, while the High Court was willing to accept a burden upon political communication to ensure 'comfort, convenience and safety of other road users', the provisions in that case enacted a permit system that allowed only the possibility that protests would be prohibited, where specifically considered inconvenient.<sup>127</sup>

It is therefore unlikely that the provisions of the *RHATA* would survive in their entirety. The blanket prohibition of 'protest[s] in relation to terminations' that are 'able to be seen or heard' by patients is unlikely to be viewed as sufficiently precise to withstand the controversy of its implementation.<sup>128</sup> This provision is

<sup>121</sup> *Coleman* (2004) 220 CLR 1, 53–4, 56 (Gummow and Hayne JJ).

<sup>122</sup> *Ibid* 30 (McHugh J).

<sup>123</sup> *RHATA* s 9(1) (definition of 'Prohibited Behaviour' (b)).

<sup>124</sup> *Ibid* s 9(1) (definition of 'Access Zone').

<sup>125</sup> *Levy* (1997) 189 CLR 579, 627.

<sup>126</sup> *Coleman* (2004) 220 CLR 1, 34 (McHugh J).

<sup>127</sup> *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 323 [138], 324 [141] (French CJ), 335 [204] (Crennan and Kiefel JJ).

<sup>128</sup> *RHATA* s 9(1) (definition of 'Prohibited Behaviour' (b)).

enlivened by the less certain legislative purpose of preventing political communication that is contrary to contemporary standards. The legitimacy of crafting legislation to provide individuals seeking abortions with ‘absolute impunity’ from unsolicited communication<sup>129</sup> relies upon careful qualification and a ‘close relationship between its construction and its purpose’ of maintaining public order.<sup>130</sup> Because the provision regulates speech on the basis of its content, it may be interpreted as a direct burden upon political communication and therefore judged according to whether it is ‘necessary for the attainment of some overriding public purpose’.<sup>131</sup> As has been discussed, there is little evidence to suggest that these protests are so frequent and unruly that access to abortion clinics is currently being disrupted to the extent that so wide an exclusion zone is necessary.

Finally, the punishments imposed by the *RHATA* are severe: fines of up to 75 penalty units (\$9750) or imprisonment for a term not exceeding 12 months or both.<sup>132</sup> The severity of punishment attached to a prohibition on political communication will tend to justify a ‘restrictive reading’ of the provision and will attract additional scrutiny as to whether the legitimate purpose of the law is proportionate to the seriousness of the criminal punishment.<sup>133</sup> This is a further indication that the absolute protest-free zone may not withstand constitutional scrutiny. Nonetheless, this would leave the prohibition on besetting, harassing and intimidating conduct, and the prohibition on graphically recording patients in force, with the possibility that these would be read down to apply only to conduct resulting or likely to result in a physical disruption of the peace.

#### IV Conclusion

It is difficult to reach a predictive conclusion as to how the High Court will interpret the legitimacy of the *RHATA*. Both the communicative purpose and the emotional offence of the protests derive from the location and context of the speech. Determining whether it is better to allow a formal infringement of political communication or better to accept a functional hindrance to the comfortable access of abortion clinics will involve a question of ‘weight or balance’, despite judicial protestations otherwise.<sup>134</sup> Incidents of violence and intimidation have significantly decreased in America following the implementation of protest-free zones around

<sup>129</sup> Government Administration Committee, Legislative Council of Tasmania, Hobart, 20 November 2013, 82–138 (Mr Hall).

<sup>130</sup> *Monis* (2013) 87 ALJR 340, 357 [50] (French CJ).

<sup>131</sup> *Levy* (1997) 189 CLR 579, 619 (Gaudron J). See also *Cunliffe v Commonwealth* (1994) 182 CLR 272, 299–300, 337–9, 338; *Coleman* (2004) 220 CLR 1, 102 (Heydon J); *A-G (SA) v Adelaide* (2013) 87 ALJR 289, 337 [217] (Crennan and Kiefel JJ).

<sup>132</sup> *RHATA* s 9(2). Significant amendments in the penalties were made in Committee when the Bill was before the Legislative Council in November 2013. The financial penalty was reduced from 500 penalty units to 75 penalty units. An amendment of the maximum imprisonment term from 12 months to three months was negated. See Government Administration Committee, Legislative Council of Tasmania, Hobart, 20 November 2013, 82–138.

<sup>133</sup> *Coleman* (2004) 220 CLR 1, 53–4, 56 (Gummow and Hayne JJ), 66 (Kirby J); *Levy* (1997) 189 CLR 579, 614 (Toohey and Gummow JJ); *Monis* (2013) 87 ALJR 340, 402 [311] (Crennan, Kiefel and Bell JJ).

<sup>134</sup> *Coleman* (2004) 220 CLR 1, 29 (McHugh J); Kelly, above n 28, 456.

abortion clinics: such a reduction is a noble legislative goal.<sup>135</sup> Whether it is legitimate to burden political communication in order to achieve that goal depends on one's concept of what is desirable, or at least tolerable, political debate. We may be hopeful that law reform implementing protest-free zones around abortion clinics in Australia will provide an occasion for the High Court to undertake this imaginative exercise.

---

<sup>135</sup> William Alex Pridemore and Joshua Freilich, 'The Impact of State Laws Protecting Abortion Clinics and Reproductive Rights on Crimes Against Abortion Providers: Deterrence, Backlash or Neither?' (2007) 31 *Law and Human Behavior* 611, 624; Joshua Wilson, *Street Politics of Abortion: Speech, Violence and America's Culture Wars* (Stanford University Press, 2013) 180–3.





**Marion-Landais, Stephanie (Health)**

---

**From:** Butler, Anthony (Health)  
**Sent:** Tuesday, 18 August 2015 4:00 PM  
**To:** Dorrell, Susanna (Health)  
**Cc:** Richter, Matthew (Health); Nimpuno, Inez (Health); Marion-Landais, Stephanie (Health)  
**Subject:** GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Attachments:** Min Brief Health (patient privacy) amendment Bill 2015 - Aug 2015 - Min to be advised re a sub.doc; Attachment A - not from TRIM - no signature.pdf; GBC15-264 - Exclusion Zones Bill Briefing Request.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Susanna,

**RE: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission**

Please find attached an e-copy of GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission.

A hard-copy is in your in-tray.

Thank you

Regards

Anthony

## Marion-Landais, Stephanie (Health)

---

**From:** Butler, Anthony (Health)  
**Sent:** Wednesday, 19 August 2015 11:05 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Richter, Matthew (Health); Nimpuno, Inez (Health); Pickrell, Rachel (Health); Eadie, Catherine (Health); Marion-Landais, Stephanie (Health); Symons, Louise (Health)  
**Subject:** FW: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Attachments:** Attachment A - not from TRIM - no signature.pdf; GBC15-264 - Exclusion Zones Bill Briefing Request.pdf; Min Brief Health (patient privacy) amendment Bill 2015 - Aug 2015 - Min to be advised re a sub.doc  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Kathleen,

Please find attached updated version of GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission.

✓ With Ross' amendments – I understand that Ross is seeking further advice on this one in relation to the appropriateness of ACT Health providing a submission to a Private Members Bill and the Ministers preferences.

Thanks

Regards

Anthony

---

**From:** Butler, Anthony (Health)  
**Sent:** Tuesday, 18 August 2015 4:25 PM  
**To:** Vosen, Kathleen (Health)  
**Subject:** FW: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

✓ Dear Kathleen,

Please find attached below Brief – with corrections as requested.

Regards

Anthony

---

**From:** Butler, Anthony (Health)  
**Sent:** Tuesday, 18 August 2015 4:00 PM  
**To:** Dorrell, Susanna (Health)  
**Cc:** Richter, Matthew (Health); Nimpuno, Inez (Health); Marion-Landais, Stephanie (Health)  
**Subject:** GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

Dear Susanna,

**RE: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission**



Please find attached an e-copy of GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission.

A hard-copy is in your in-tray.

Thank you

Regards

Anthony

## Marion-Landais, Stephanie (Health)

---

**From:** Richter, Matthew (Health)  
**Sent:** Thursday, 20 August 2015 9:43 AM  
**To:** Butler, Anthony (Health); Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/264: Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 20 August 2015 9:09 AM  
**To:** Richter, Matthew (Health)  
**Subject:** FW: GBC15/264: Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Importance:** High

And good morning to you...

Just checking how you are going with this.

---

**From:** Hogan, Sonia (Health)  
**Sent:** Monday, 17 August 2015 10:42 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** FW: GBC15/264: Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Importance:** High

Hi Kathleen,

Please can you organise a Min Brief to prepare a brief to the Minister to seek his recommendation on whether ACT Health should prepare a submission. To the DGG Strategy and Corporate by 20 August- Much appreciated- Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



Care ▲ Excellence ▲ Collaboration ▲ Integrity

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Monday, 17 August 2015 10:29 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Pearson, Karen (Health); Carey, Megan (Health)  
**Subject:** GBC15/264: Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Importance:** High

Hi Sonia,

Mr Shane Rattenbury MLA recently released the Exposure draft Bill of the Health (Patient Privacy) Amendment Bill 2015.

This was presented by Mr Rattenbury in the Legislative Assembly on 6 August 2015.

A copy of the draft Bill and Explanatory statement can be found in GBC15/264.

The consultation period is 20 July 2015 – 11 September 2015.

Can you please arrange for the appropriate action officer (Matt Richter or Geoff Purser) to prepare a brief to the Minister to seek his recommendation on whether ACT Health should prepare a submission.

Can I request that the cleared brief be provided back to MAGs by **COB 21 August 2015**.

Please let me know if you have any questions

Thank you

Chris Orubuloye | Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

## Marion-Landais, Stephanie (Health)

---

**From:** Butler, Anthony (Health)  
**Sent:** Thursday, 20 August 2015 12:22 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Dorrell, Susanna (Health); Richter, Matthew (Health); Pickrell, Rachel (Health); Eadie, Catherine (Health); Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission  
**Attachments:** Attachment A - not from TRIM - no signature.pdf; GBC15-264 - Exclusion Zones Bill Briefing Request.pdf; Min Brief Health (patient privacy) amendment Bill 2015 - Aug 2015 - Min to be advised re a sub.doc  
  
**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Dear Kathleen,

Please find attached the amended Brief on the Exclusion Zone Bill.

Regards

Anthony

---

**From:** Butler, Anthony (Health)  
**Sent:** Wednesday, 19 August 2015 11:05 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Richter, Matthew (Health); Nimpuno, Inez (Health); Pickrell, Rachel (Health); Eadie, Catherine (Health); Marion-Landais, Stephanie (Health); Symons, Louise (Health)  
**Subject:** FW: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

Dear Kathleen,

Please find attached updated version of GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission.

With Ross' amendments – I understand that Ross is seeking further advice on this one in relation to the appropriateness of ACT Health providing a submission to a Private Members Bill and the Ministers preferences.

Thanks

Regards

Anthony

---

**From:** Butler, Anthony (Health)  
**Sent:** Tuesday, 18 August 2015 4:25 PM  
**To:** Vosen, Kathleen (Health)  
**Subject:** FW: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

Dear Kathleen,

Please find attached below Brief – with corrections as requested.

Regards

Anthony

---

**From:** Butler, Anthony (Health)  
**Sent:** Tuesday, 18 August 2015 4:00 PM  
**To:** Dorrell, Susanna (Health)  
**Cc:** Richter, Matthew (Health); Nimpuno, Inez (Health); Marion-Landais, Stephanie (Health)  
**Subject:** GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission

Dear Susanna,

**RE: GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission**

Please find attached an e-copy of GBC15/264 - Brief - Health (Patient Privacy) Amendment Bill - ACT Health Submission.

A hard-copy is in your in-tray.

Thank you

Regards

Anthony

**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 17 September 2015 12:01 PM  
**To:** Vosen, Kathleen (Health); Richter, Matthew (Health)  
**Subject:** RE: DP Thurs 17 Sept 2015

Thanks Kate – very helpful to know!

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 17 September 2015 9:32 AM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** DP Thurs 17 Sept 2015

Just for your info

The Health (Patient Privacy) Amendment Bill is being presented and 'Agreement in principle to be moved. Debate to be adjourned' – Today in the legislative assembly

## Marion-Landais, Stephanie (Health)

---

**From:** Dorrell, Susanna (Health)  
**Sent:** Wednesday, 23 September 2015 4:20 PM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** Signed letter to Health.pdf

**Importance:** High

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Matty, for your heads up please. ta

Susanna Dorrell  
 PA to Executive Director  
 Ross O'Donoghue  
 Policy & Government Relations

T (02) 6205 0878 - F (02) 6205 0866

Care ▲ Excellence ▲ Collaboration ▲ Integrity



**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 23 September 2015 4:13 PM  
**To:** Vosen, Kathleen (Health); Dorrell, Susanna (Health); O'Donoghue, Ross (Health)  
**Cc:** DDGCorporate; Smith, Kim (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi All,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015. Therefore, we need this by **1 December to get appropriate clearances.**

**Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:**

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.

- **Government position on the Bill.**
- **A Cabinet submission**
- **Triple Bottom Line assessment (attachment to Cab sub)**
- **Communications strategy (attachment to Cab sub)**

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

#### Advice to the Chief Minister

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

#### Handling of Private or Executive Members' Bills in the Assembly

There are four broad options:

- (i) Oppose the Bill – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) Support the Bill – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) Move Government amendments when the Bill comes up for debate – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder will come down to you.

Please let me know if you have further questions.



**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.



**ACT**  
Government

Chief Minister, Treasury and  
Economic Development

Ms Nicole Feely  
Director-General  
Health Directorate

Dear Ms Feely

### **Health (Patient Privacy) Amendment Bill 2015**

On 17 September 2015 Mr Shane Rattenbury MLA presented the Health (Patient Privacy) Amendment Bill 2015 under Executive Members Business in the Legislative Assembly. Development of a Government Position on this Bill is a matter for coordination by the Health Directorate.

A Government Position will need to be ready on the Bill within three months from the date of presentation in the Assembly, in this case by **17 December 2015**. To meet this timeframe, the Submission should be considered by Cabinet no later than **8 December 2015**. Your directorate may care to make early contact with the Cabinet Office to discuss these time frames. The Cabinet Office has issued Cabinet Number 15/581 for this submission.

If you have any queries regarding this matter please contact Pam Darville on 620 50543.

Yours sincerely

Sam Engele  
Director  
Cabinet Officer

17 September 2015

## Marion-Landais, Stephanie (Health)

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Tuesday, 5 January 2016 4:14 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** Signed letter to Health.pdf  
  
**Importance:** High

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 23 September 2015 4:13 PM  
**To:** Vosen, Kathleen (Health); Dorrell, Susanna (Health); O'Donoghue, Ross (Health)  
**Cc:** DDGCorporate; Smith, Kim (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi All,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015. Therefore, we need this by **1 December to get appropriate clearances.**

**Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:**

- **A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.**
- **A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.**
- **Government position on the Bill.**
- **A Cabinet submission**
- **Triple Bottom Line assessment (attachment to Cab sub)**
- **Communications strategy (attachment to Cab sub)**

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

## Advice to the Chief Minister

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

## Handling of Private or Executive Members' Bills in the Assembly

There are four broad options:

- (i) Oppose the Bill – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) Support the Bill – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) Move Government amendments when the Bill comes up for debate – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder will come down to you.

Please let me know if you have further questions.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

**CORRESPONDENCE CLEARANCE**

**SUBJECT: Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015,**

**NUMBER: MIN15/1054** **DATE DUE: .....**

Director-General - Health Directorate: ..... Date: *25/10/15*

Deputy Director-General, Strategy & Corporate: ..... Date: *17/10/15*

Deputy Director-General, Canberra Hospital & Health Services: ..... Date: .....

Deputy Director-General, Health Planning and Infrastructure: ..... Date: .....

*1/9* Senior Manager, Ministerial and Government Services: ..... Date: *21/9/15/2015*

Senior Manager, Communications and Marketing: ..... Date: .....

Chief Information Officer, E-Health & Clinical Records: ..... Date: .....

Chief Finance Officer, Financial Management: ..... Date: .....

Exec Director, Business and Infrastructure: ..... Date: .....

Exec Director, Cancer, Ambulatory & Community Health Support: ..... Date: .....

Chief Health Officer, Population Health: ..... Date: .....

Exec Director, Critical Care: ..... Date: .....

Exec Director, People, Strategy & Services: ..... Date: .....

Exec Director, Medicine: ..... Date: .....

Exec Director, Mental Health, Justice Health, Alcohol & Drug Services: ..... Date: .....

Exec Director, Pathology: ..... Date: .....

Exec Director, Performance Information: ..... Date: *25/9*

Exec Director, Policy & Government Relations: ..... Date: *17/9*

Exec Director, HealthCARE Improvement: ..... Date: .....

Exec Director, Rehabilitation Aged & Community Care: ..... Date: .....

Exec Director, Surgery, Oral Health & Medical Imaging: ..... Date: .....

Exec Director, Women Youth & Children: ..... Date: .....

Manager, Canberra Hospital Foundation: ..... Date: .....

Director, Donate Life ACT: ..... Date: .....

Exec Director, Clinical Support Services: ..... Date: .....

Professional Leads: ..... Date: .....

Other: ..... Date: .....

UNCLASSIFIED

TRIM No.: MIN15/1054

Date Rec'd Minister's Office 1...10.15

**To:** Minister for Health  
Minister for Police and Emergency Services

**From:** Ms Nicole Feely, Director-General ACT Health

**Subject:** Health (Patient Privacy) Amendment Bill

**Critical Date:** 7 October 2015

**Critical Reason:** You have a meeting with the Executive Director and Health Promotion Officer of Women's Centre for Health Matters on 7 October 2015.

- DG Health .../.../...
- DDG S&C .../.../...

#### Purpose

1. To provide you with information in preparation for your meeting with Ms Marcia Williams, Executive Director and Ms Angela Carnovale, Health Promotion Officer for the Women's Centre for Health Matters, Inc. (WCHM) on 7 October 2015.

#### Background

2. WCHM is a community-based not for profit organisation that works in the ACT and surrounding region to improve women's health and wellbeing. ACT Health holds a service funding agreement with WCHM with an annual commitment of \$459,866 until June 2016.
3. WCHM represents the views of ACT women on advisory bodies, reference committees and working groups, and advocates through consultation and submission processes at both the ACT and national levels. WCHM undertakes this work across a range of areas including disability, housing, justice, health and mental health. In particular WCHM undertakes advocacy to:
  - a. Raise awareness of the impacts on health and wellbeing of social, economic and environmental factors
  - b. Ensure that health services are women-sensitive, affordable, accessible and responsive
  - c. Create change in service delivery, policy, practice, and community attitudes
  - d. Empower women and women's groups to become more involved in decision-making about healthcare and broader health policy and initiatives.
4. WCHM requested this meeting to discuss their response to the Exposure Draft of the *Health (Patient Privacy) Amendment Bill 2015* (the HPPA Bill).
5. In June 2015, you were briefed regarding the development of the HPPA Bill as provided at Attachment A.

UNCLASSIFIED

6. The ACT Greens Party released an Exposure Draft of the HPPA Bill on 20 July 2015, and Mr Shane Rattenbury MLA introduced it in the Legislative Assembly on 17 September 2015. No debate has occurred as of today. The HPPA Bill had a consultation period from 20 July to 11 September 2015.
7. The HPPA Bill proposed the introduction of exclusion zones, within which protests and other public displays regarding abortion would be prohibited, around medical facilities that provide termination of pregnancy services in the ACT. Tasmania has legislated similar exclusion zones since 2013, while Victoria has recently had a similar Bill introduced into the Victorian Parliament.

#### **Government Commitment**

8. The provision of termination of pregnancy services in the ACT is protected under the *Health Act 1993*.
9. The ACT Government's focus when delivering healthcare services is to put the person at the centre of care. In this way, the ACT recognises the principles set out in the *Australian Charter of Health Care Rights*, that everyone has the right to access health care that respects the patient, their cultural beliefs, values and personal characteristics.
10. The *Human Rights Act 2004* states that all people have the right of peaceful assembly. The HPPA Bill is to be assessed against the *Human Rights Act 2004*, taking into consideration the right to peaceful assembly as well as the rights of an individual to access healthcare in a safe and respectful way. The practicalities of enforcing such a bill will also need to be carefully considered.

#### **Issues**

11. The medical facility approved to provide termination of pregnancy services in the ACT is Marie Stopes International, located at level 1, 1 Moore Street Canberra City.
12. A March 2015 protest located in front of 1 Moore Street, Canberra City was part of the "40 Days for Life" campaign. This is a highly coordinated international campaign and has claimed responsibility for the disruption and closure of myriad facilities offering termination services, as well as the resignation of a number of staff working in this field. The inclusion of the "40 Days of Life" group in the 1 Moore Street demonstrations has caused some concern that protests in the ACT may escalate.
13. The HPPA Bill specifically responds to community concerns over perceived intimidating and harassing conduct that has occurred outside of the approved health facility that provides termination of pregnancy services at 1 Moore Street. The HPPA Bill also seeks to ensure that any future escalation of protest activities is contained.



14. The HPPA Bill was designed to:
  - a. prevent behaviours which may act to increase emotional distress or prevent women from accessing legal and medically recognised health procedures;
  - b. create a 'protest free zone' which means that all forms of protest will be prohibited; and
  - c. ensure that both staff and patients may enter and exit the medical facility without prejudice.
15. As of 17 September 2015, ACT Health has received at least 90 pieces of correspondence addressed to MLAs that appear to be part of a campaign supporting the introduction of exclusion zones and seven letters of dissent not supporting exclusion zones.
16. Following consideration of the HPPA Bill, ACT Health notes the following points as relevant to the debate:
  - a. Pregnancy termination in the ACT is considered a health issue, to be managed by the health care system, rather than a criminal matter.
  - b. Access to an approved medical facility providing services in relation to sexual health, planning and pregnancy termination is legal in the ACT.
  - c. The rights under the *ACT Human Rights Act* to freedom of association and expression, thought, conscience, religion and belief need to be balanced against the rights to privacy and reputation of other parties.

#### ***The HPPA Bill structure***

17. The HPPA Bill proposes to amend the Health Act to introduce a new division in part 6 relating to patient privacy in protected areas.
18. The HPPA Bill would introduce section 87(1) which would make it an offence for a person to engage in 'prohibited behaviours' in a 'protected area' around 'approved' medical facilities.
19. The 'protected area' would be declared by the Minister and must be no bigger than reasonably necessary to ensure a person's privacy and unimpeded access (s86). 'Prohibited behaviours' in that area includes various forms of harassment, acts that prohibit access to the medical facility, protests, and filming of people without their consent. Behaviours are prohibited only during a 'prohibited period', between 8am and 6pm each business day (or other time as declared by the Minister) (s85(1)). Unauthorised filming is prohibited at all times.
20. The Bill contains two offences. The first, engaging in prohibited behaviour in a prohibited area, carries a maximum penalty of 25 penalty units (s87(1)). The second is an unauthorised filming offence, which carries a penalty of 50 penalty units, imprisonment for six months or both (s87(2)).

### ***Comparison with Tasmanian legislation***

21. Tasmania recently enacted similar 'exclusion zone' provisions in its *Reproductive Health (Access to Terminations) Act 2013* (the 'Tasmanian Act'). This Act was part of a series of reforms to decriminalise abortions in that State.
22. The main difference between the Tasmanian Act and the HPPA Bill is that Tasmania legislates a 150m boundary for the 'protected area', rather than leaving it to the Minister's declaration.
23. Specific police powers are also given to Tasmanian police in the legislation (name and address demand, stop, search and seize powers), where they believe someone is committing or has committed an offence. These do not appear in the HPPA Bill, but would most likely be available in any case.
24. The Tasmanian Act also contains clauses allowing police to issue infringement notices in respect of offences in the Act prescribed by regulation as 'infringement offences'. Infringement notices could be provided in relation to the HPPA Bill offences once passed by way of a regulation.

### ***Human Rights Implications***

25. The HPPA Bill engages, and will potentially limit, a number of human rights in the *Human Rights Act 2004* in relation to anti-abortion protesters: the right to freedom of movement (s13), the right to freedom of thought, conscience, religion and belief (s14), the right to peaceful assembly and freedom of association (s15) and the right to freedom of expression (s16).
26. Facilitating access to health care services (including abortion) by women engages and could be argued to improve the protection of women's rights - protection from discrimination (s8); protection of the family and children (s11); privacy (s12) and security of the person (s18).
27. Women have a number of rights in international human rights law which have not been directly adopted in the *Human Rights Act 2004* including a general right to the highest attainable standard of physical and mental health under article 12 of the International Covenant on Economic, Social and Cultural Rights and article 12 of the Convention for the Elimination of All Forms of Discrimination Against Women which provides that -  
"States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning".

28. In determining whether the clear limitations on rights to assembly are compatible with the *Human Rights Act 2004*, an assessment of the purpose and nature of the exclusion zone proposal would need to be undertaken.
29. As the HPPA Bill is not a Government Bill, it is not subject to the same pre-legislative scrutiny processes as a Government Bill, which requires the Attorney assess whether a bill is consistent with the *Human Rights Act 2004*.
30. Subject to the consideration of this issue in the ACT context and the views of ACT stakeholders to inform an evidence base, it is likely that such legislation could be justifiable and therefore compatible with the HRA.
31. On 25 August 2015 the Victorian Supreme Court handed down a decision that, although the protests constituted nuisance, the Melbourne City Council was not in breach of a duty of care to women accessing abortion services by failing to enforce nuisance laws to restrict anti-abortion protests (<http://www.austlii.edu.au/au/cases/vic/VSC/2015/424.html>).
32. In response to this decision, on 1 September 2015 the Victorian Government announced an intention to introduce legislation to provide exclusion zones in similar terms to that in Tasmania and proposed in the ACT.

#### **Financial Implications**

33. Enforcement of the HPPA Bill would have some financial implications. Both JACS and TAMS Directorates would need to be consulted in this regard.

#### **Directorate Consultation**

34. The implementation of the HPPA Bill would fall within the remit of JACS and TAMS.

#### **External Consultation**

35. Input has been provided to ACT Health from JACS.

#### **Benefits/Sensitivities**

36. The issue of termination of pregnancy is a highly sensitive topic. Access to pregnancy termination is legal in the ACT and it is regarded as a health care, rather than a criminal, matter.
37. All Australians have the right to access health care services whenever required. Therefore, barriers to the accessibility of health care services should be reduced where feasible, or if at all possible removed. Under this situation, however, those rights of access must be weighed against the rights of all ACT residents under the *ACT Human Rights Act* to freedom of speech and the right to peaceful assembly.

**Media Implications**

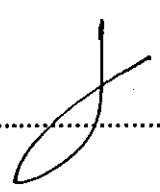
38. Media attention is expected when the HPPA Bill is being debated. A media release will be provided to your office when the HPPA Bill is debated.

**Recommendation**

That you note the information contained in this brief and the attachment provided.

**Noted / Please Discuss**

Simon Corbell MLA.....



7 10 15  
...../...../.....

**Recommendation**

That you note the information contained in this brief and the attachment provided.

**Noted / Please Discuss**

Joy Burch MLA .....

...../...../.....

**Minister's Comments**

Signatory Name:	Ross O'Donoghue	Phone:	50568
Title:	Executive Director Policy and Government Relations		
Date:	25 September 2015		
Action Officer:	Stephanie Marion-Landais	Phone:	51875

---

**CORRESPONDENCE CLEARANCE**

**SUBJECT: Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015,**

**NUMBER: MIN15/1054**

**DATE DUE: .....**

---

Director-General - Health Directorate:..... Date: .....

Deputy Director-General, Strategy & Corporate: ..... Date: .....

Deputy Director-General, Canberra Hospital & Health Services:..... Date: .....

Deputy Director-General, Health Planning and Infrastructure:..... Date: .....

Senior Manager, Ministerial and Government Services:..... Date: .....

Senior Manager, Communications and Marketing:..... Date: .....

Chief Information Officer, E-Health & Clinical Records:..... Date: .....

Chief Finance Officer, Financial Management:..... Date: .....

Exec Director, Business and Infrastructure: ..... Date: .....

Exec Director, Cancer, Ambulatory & Community Health Support:..... Date: .....

Chief Health Officer, Population Health:..... Date: .....

Exec Director, Critical Care: ..... Date: .....

Exec Director, People, Strategy & Services:..... Date: .....

Exec Director, Medicine: ..... Date: .....

Exec Director, Mental Health, Justice Health, Alcohol & Drug Services:..... Date: .....

Exec Director, Pathology: ..... Date: .....

Exec Director, Performance Information: ..... Date: .....

Exec Director, Policy & Government Relations:..... Date: .....

Exec Director, HealthCARE Improvement:..... Date: .....

Exec Director, Rehabilitation Aged & Community Care:..... Date: .....

Exec Director, Surgery, Oral Health & Medical Imaging:..... Date: .....

Exec Director, Women Youth & Children:..... Date: .....

Manager, Canberra Hospital Foundation:..... Date: .....

Director, Donate Life ACT: ..... Date: .....

Exec Director, Clinical Support Services: ..... Date: .....

Professional Leads: ..... Date: .....

Other: ..... Date: .....

---

UNCLASSIFIED

TRIM No.: MIN15/1054

Date Rec'd Minister's Office

7/10/15

**To:** Minister for Health  
Minister for Police and Emergency Services

**From:** Ms Nicole Feely, Director-General ACT Health

**Subject:** Health (Patient Privacy) Amendment Bill

**Critical Date:** 7 October 2015

**Critical Reason:** You have a meeting with the Executive Director and Health Promotion Officer of Women's Centre for Health Matters on 7 October 2015.

- DG Health .../.../...
- DDG S&C .../.../...

### Purpose

1. To provide you with information in preparation for your meeting with Ms Marcia Williams, Executive Director and Ms Angela Carnovale, Health Promotion Officer for the Women's Centre for Health Matters, Inc. (WCHM) on 7 October 2015.

### Background

2. WCHM is a community-based not for profit organisation that works in the ACT and surrounding region to improve women's health and wellbeing. ACT Health holds a service funding agreement with WCHM with an annual commitment of \$459,866 until June 2016.
3. WCHM represents the views of ACT women on advisory bodies, reference committees and working groups, and advocates through consultation and submission processes at both the ACT and national levels. WCHM undertakes this work across a range of areas including disability, housing, justice, health and mental health. In particular WCHM undertakes advocacy to:
  - a. Raise awareness of the impacts on health and wellbeing of social, economic and environmental factors
  - b. Ensure that health services are women-sensitive, affordable, accessible and responsive
  - c. Create change in service delivery, policy, practice, and community attitudes
  - d. Empower women and women's groups to become more involved in decision-making about healthcare and broader health policy and initiatives.
4. WCHM requested this meeting to discuss their response to the Exposure Draft of the *Health (Patient Privacy) Amendment Bill 2015* (the HPPA Bill).
5. In June 2015, you were briefed regarding the development of the HPPA Bill as provided at Attachment A.

UNCLASSIFIED

6. The ACT Greens Party released an Exposure Draft of the HPPA Bill on 20 July 2015, and Mr Shane Rattenbury MLA introduced it in the Legislative Assembly on 17 September 2015. No debate has occurred as of today. The HPPA Bill had a consultation period from 20 July to 11 September 2015.
7. The HPPA Bill proposed the introduction of exclusion zones, within which protests and other public displays regarding abortion would be prohibited, around medical facilities that provide termination of pregnancy services in the ACT. Tasmania has legislated similar exclusion zones since 2013, while Victoria has recently had a similar Bill introduced into the Victorian Parliament.

#### **Government Commitment**

8. The provision of termination of pregnancy services in the ACT is protected under the *Health Act 1993*.
9. The ACT Government's focus when delivering healthcare services is to put the person at the centre of care. In this way, the ACT recognises the principles set out in the *Australian Charter of Health Care Rights*, that everyone has the right to access health care that respects the patient, their cultural beliefs, values and personal characteristics.
10. The *Human Rights Act 2004* states that all people have the right of peaceful assembly. The HPPA Bill is to be assessed against the *Human Rights Act 2004*, taking into consideration the right to peaceful assembly as well as the rights of an individual to access healthcare in a safe and respectful way. The practicalities of enforcing such a bill will also need to be carefully considered.

#### **Issues**

11. The medical facility approved to provide termination of pregnancy services in the ACT is Marie Stopes International, located at level 1, 1 Moore Street Canberra City.
12. A March 2015 protest located in front of 1 Moore Street, Canberra City was part of the "40 Days for Life" campaign. This is a highly coordinated international campaign and has claimed responsibility for the disruption and closure of myriad facilities offering termination services, as well as the resignation of a number of staff working in this field. The inclusion of the "40 Days of Life" group in the 1 Moore Street demonstrations has caused some concern that protests in the ACT may escalate.
13. The HPPA Bill specifically responds to community concerns over perceived intimidating and harassing conduct that has occurred outside of the approved health facility that provides termination of pregnancy services at 1 Moore Street. The HPPA Bill also seeks to ensure that any future escalation of protest activities is contained.

14. The HPPA Bill was designed to:
  - a. prevent behaviours which may act to increase emotional distress or prevent women from accessing legal and medically recognised health procedures;
  - b. create a 'protest free zone' which means that all forms of protest will be prohibited; and
  - c. ensure that both staff and patients may enter and exit the medical facility without prejudice.
15. As of 17 September 2015, ACT Health has received at least 90 pieces of correspondence addressed to MLAs that appear to be part of a campaign supporting the introduction of exclusion zones and seven letters of dissent not supporting exclusion zones.
16. Following consideration of the HPPA Bill, ACT Health notes the following points as relevant to the debate:
  - a. Pregnancy termination in the ACT is considered a health issue, to be managed by the health care system, rather than a criminal matter.
  - b. Access to an approved medical facility providing services in relation to sexual health, planning and pregnancy termination is legal in the ACT.
  - c. The rights under the *ACT Human Rights Act* to freedom of association and expression, thought, conscience, religion and belief need to be balanced against the rights to privacy and reputation of other parties.

#### ***The HPPA Bill structure***

17. The HPPA Bill proposes to amend the Health Act to introduce a new division in part 6 relating to patient privacy in protected areas.
18. The HPPA Bill would introduce section 87(1) which would make it an offence for a person to engage in 'prohibited behaviours' in a 'protected area' around 'approved' medical facilities.
19. The 'protected area' would be declared by the Minister and must be no bigger than reasonably necessary to ensure a person's privacy and unimpeded access (s86). 'Prohibited behaviours' in that area includes various forms of harassment, acts that prohibit access to the medical facility, protests, and filming of people without their consent. Behaviours are prohibited only during a 'prohibited period', between 8am and 6pm each business day (or other time as declared by the Minister) (s85(1)). Unauthorised filming is prohibited at all times.
20. The Bill contains two offences. The first, engaging in prohibited behaviour in a prohibited area, carries a maximum penalty of 25 penalty units (s87(1)). The second is an unauthorised filming offence, which carries a penalty of 50 penalty units, imprisonment for six months or both (s87(2)).



### ***Comparison with Tasmanian legislation***

21. Tasmania recently enacted similar 'exclusion zone' provisions in its *Reproductive Health (Access to Terminations) Act 2013* (the 'Tasmanian Act'). This Act was part of a series of reforms to decriminalise abortions in that State.
22. The main difference between the Tasmanian Act and the HPPA Bill is that Tasmania legislates a 150m boundary for the 'protected area', rather than leaving it to the Minister's declaration.
23. Specific police powers are also given to Tasmanian police in the legislation (name and address demand, stop, search and seize powers), where they believe someone is committing or has committed an offence. These do not appear in the HPPA Bill, but would most likely be available in any case.
24. The Tasmanian Act also contains clauses allowing police to issue infringement notices in respect of offences in the Act prescribed by regulation as 'infringement offences'. Infringement notices could be provided in relation to the HPPA Bill offences once passed by way of a regulation.

### ***Human Rights Implications***

25. The HPPA Bill engages, and will potentially limit, a number of human rights in the *Human Rights Act 2004* in relation to anti-abortion protesters: the right to freedom of movement (s13), the right to freedom of thought, conscience, religion and belief (s14), the right to peaceful assembly and freedom of association (s15) and the right to freedom of expression (s16).
26. Facilitating access to health care services (including abortion) by women engages and could be argued to improve the protection of women's rights - protection from discrimination (s8); protection of the family and children (s11); privacy (s12) and security of the person (s18).
27. Women have a number of rights in international human rights law which have not been directly adopted in the *Human Rights Act 2004* including a general right to the highest attainable standard of physical and mental health under article 12 of the International Covenant on Economic, Social and Cultural Rights and article 12 of the Convention for the Elimination of All Forms of Discrimination Against Women which provides that -  
"States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning".

28. In determining whether the clear limitations on rights to assembly are compatible with the *Human Rights Act 2004*, an assessment of the purpose and nature of the exclusion zone proposal would need to be undertaken.
29. As the HPPA Bill is not a Government Bill, it is not subject to the same pre-legislative scrutiny processes as a Government Bill, which requires the Attorney assess whether a bill is consistent with the *Human Rights Act 2004*.
30. Subject to the consideration of this issue in the ACT context and the views of ACT stakeholders to inform an evidence base, it is likely that such legislation could be justifiable and therefore compatible with the HRA.
31. On 25 August 2015 the Victorian Supreme Court handed down a decision that, although the protests constituted nuisance, the Melbourne City Council was not in breach of a duty of care to women accessing abortion services by failing to enforce nuisance laws to restrict anti-abortion protests (<http://www.austlii.edu.au/au/cases/vic/VSC/2015/424.html>).
32. In response to this decision, on 1 September 2015 the Victorian Government announced an intention to introduce legislation to provide exclusion zones in similar terms to that in Tasmania and proposed in the ACT.

#### **Financial Implications**

33. Enforcement of the HPPA Bill would have some financial implications. Both JACS and TAMS Directorates would need to be consulted in this regard.

#### **Directorate Consultation**

34. The implementation of the HPPA Bill would fall within the remit of JACS and TAMS.

#### **External Consultation**

35. Input has been provided to ACT Health from JACS.

#### **Benefits/Sensitivities**

36. The issue of termination of pregnancy is a highly sensitive topic. Access to pregnancy termination is legal in the ACT and it is regarded as a health care, rather than a criminal, matter.
37. All Australians have the right to access health care services whenever required. Therefore, barriers to the accessibility of health care services should be reduced where feasible, or if at all possible removed. Under this situation, however, those rights of access must be weighed against the rights of all ACT residents under the *ACT Human Rights Act* to freedom of speech and the right to peaceful assembly.

**Media Implications**

38. Media attention is expected when the HPPA Bill is being debated. A media release will be provided to your office when the HPPA Bill is debated.

**Recommendation**

That you note the information contained in this brief and the attachment provided.

**Noted / Please Discuss**

Simon Corbell MLA..... /...../.....

**Recommendation**

That you note the information contained in this brief and the attachment provided.

**Noted / Please Discuss**

Joy Burch MLA .....

21, 19, 15

*Full / abstract  
no time limits  
2. 50 M.*

Minister's Comments

Signatory Name: Ross O'Donoghue Phone: 50568  
Title: Executive Director Policy and Government Relations  
Date: 25 September 2015  
Action Officer: Stephanie Marion-Landais Phone: 51875

**Dal Molin, Vanessa (Health)**

---

**Subject:** 2:00pm - Meeting with Marcia Williams & Angela Carnovale re: Health (Patient Privacy) Amendment Bill 2015  
**Location:** DCMO  
**Start:** Wed 07/10/2015 2:00 PM  
**End:** Wed 07/10/2015 2:30 PM  
**Show Time As:** Tentative  
**Recurrence:** (none)  
**Meeting Status:** Not yet responded  
**Organizer:** Corbell, Simon  
**Required Attendees:** Boogs, Monika; Dal Molin, Vanessa (Health); Conroy, Kathryn

Received  
on  
30 JUL 2015  
MINISTERIAL AND  
GOVERNMENT SERVICES

Vanessa – Can you please arrange a brief



2015072915271578  
3.pdf

JA 31/7/15

# Meeting Request

Name of person requesting: Marcia Williams Date: 28.7.15  
 Organisation: Women's Centre for Health matters  
 Subject: Exposure Draft: Health (Patient Privacy) Amendment Bill 2015  
 Their Level of Urgency: \_\_\_\_\_

Meeting accepted:  YES  NO (pls see Further Action)

Urgent (Within 2 weeks)     
  Normal (Within 4 weeks)     
  Diary Availability (When time permits)

## Meeting Requirements

Documentation:

Brief  
 Information  
 Nothing Required

Attendance:

Chief of Staff  
 Senior Adviser  
 Media Adviser  
 Adviser  
 DLO  
 Department

## Further Action

<input type="checkbox"/> Chief of Staff	<input type="checkbox"/> Adviser
<input type="checkbox"/> Senior Adviser	<input type="checkbox"/> EO
<input type="checkbox"/> Media Adviser	<input type="checkbox"/> DLO
<b>PLEASE</b>	
<input type="checkbox"/> Meet	<input type="checkbox"/> For Information
<input type="checkbox"/> Reply	<input type="checkbox"/> Refer to.....
<input type="checkbox"/> File	<input type="checkbox"/> Action
<input type="checkbox"/> Comment.....	

**Burton, Natasha**

---

**From:** WCHM Executive Director [ed@wchm.org.au]  
**Sent:** Tuesday, 28 July 2015 8:57 AM  
**To:** CORBELL  
**Subject:** Exposure Draft: Health (Patient Privacy) Amendment Bill 2015

Minister Corbell

I am writing to you regarding ACT Greens MLA Shane Rattenbury's exposure draft of the *Health (Patient Privacy) Amendment Bill 2015*.

The Women's Centre for Health Matters is supportive of this Bill, and will be preparing a submission on the exposure draft to this effect.

We support the Bill because we feel that the right that women have to access legal termination services without harassment, intimidation or humiliation needs to be weighed against the right that we have to freedom of expression. We believe that this Bill reaches the right balance between these competing rights because the protected area will be no bigger than what is reasonably necessary.

For those who wish to campaign against abortion, there are plenty of opportunities and locations in which to do so. The space immediately outside clinics should not be one of them. Establishing the privacy zones outside centres would provide the reassurance and security women and healthcare staff need.

We are hearing through correspondence to the Centre and through our membership—and reading through social and traditional media—that there is widespread support for the creation of privacy zones outside of abortion clinics in the ACT.

We look forward to further contact with you over the coming months, and to presenting to you the many community voices that support of the creation of privacy zones (and that we are collecting) at the time that the Bill is presented for debate in the Legislative Assembly.

In the meantime we look forward to sharing our submission on the exposure draft with you, and would welcome the opportunity to meet in person to discuss our respective views. Please let us know if you would like to meet, and a suitable time and date.

I look forward to your response.

Kind regards,

**Marcia Williams**  
 Executive Director  
 Women's Centre for Health Matters  
 p: 02 6290 2166 | f: 02 6286 4742  
 PO Box 385 Mawson ACT 2607  
[www.wchm.org.au](http://www.wchm.org.au)

**whmi**  
 women's centre for health matters ●



















































## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 7 October 2015 3:29 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

As you can see this is now fairly urgent.

Let me know where I can help

Regards,

### Kathleen Vosen

Executive Officer

Policy and Government Relations Branch

Strategy and Corporate

ACT Health Directorate

ph: 6205 0832

mobile: 0466443276

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.

Thanks

**Jackie Andersen** | Senior Manager  
 Ministerial and Government Services  
 ACT Health | ACT Government  
 Phone: 6205 0829 | Mobile: 0466 169 984  
 Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)



## Marion-Landais, Stephanie (Health)

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

☞ Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
 Ministerial and Government Services  
 ACT Health | ACT Government  
 Phone: 6205 0829 | Mobile: 0466 169 984  
 Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

☞ Care ▲ Excellence ▲ Collaboration ▲ Integrity



## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 7 October 2015 4:14 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Re: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303  
**Attachments:** image001.jpg

Thanks Stephanie

Sent from my iPhone

On 7 Oct 2015, at 4:09 pm, Marion-Landais, Stephanie (Health) <[Stephanie.Marion-Landais@act.gov.au](mailto:Stephanie.Marion-Landais@act.gov.au)> wrote:

Hi Ross,

As promised below are the contacts proposed by Jackie Andersen. Just a quick note of clarification -- according to the email below the info should be with MAGS (not the DDG) by midday Tuesday.

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 7 October 2015 3:29 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

As you can see this is now fairly urgent.

Let me know where I can help

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross



Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
Ministerial and Government Services  
ACT Health | ACT Government  
Phone: 6205 0829| Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity

<image001.jpg>

## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 7 October 2015 4:10 PM  
**To:** O'Donoughue, Ross (Health)  
**Cc:** Dorrell, Susanna (Health); Vosen, Kathleen (Health)  
**Subject:** FW: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Hi Ross,

As promised below are the contacts proposed by Jackie Andersen. Just a quick note of clarification -- according to the email below the info should be with MAGS (not the DDG) by midday Tuesday.

Stephanie

**Stephanie Marion-Landais, MPH** | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 7 October 2015 3:29 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** O'Donoughue, Ross (Health)  
**Subject:** FW: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

As you can see this is now fairly urgent.

Let me know where I can help

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoughue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
Ministerial and Government Services  
ACT Health | ACT Government  
Phone: 6205 0829 | Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 7 October 2015 4:56 PM  
**To:** Richter, Matthew (Health); Vosen, Kathleen (Health)  
**Subject:** FW: Draft email for JACS and TAMS to nominate action officers

**Importance:** High

Sorry Matt and Kate, I should have copied you too.

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 7 October 2015 4:55 PM  
**To:** O'Donoghue, Ross (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** FW: Draft email for JACS and TAMS to nominate action officers  
**Importance:** High

Hi Ross and Susanna, here's the email with a slight amendment (Jackie's name/title). Stephanie

Dear Colleagues,

ACT Health's Policy and Government Relations Branch has received an urgent request to develop a government position on Mr Rattenbury's *Health (Patient Privacy) Amendment Bill 2015*. This Cabinet Submission will require consultation with both JACS (AFP) and TAMS and is due to Jackie Andersen, Senior Manager, Ministerial and Government Services, ACT Health by midday Tuesday, 13 October 2015.

Since the Submission will be considered by Cabinet during the 27-29 October 2015 sitting week (in lieu of the originally scheduled December sitting week), we will need to do some rapid consultation with your teams. If you could nominate action officers in your respective Branches **by tomorrow morning (08 October) at 9 am** that will be able to liaise with P&GR over the next few days, it would be greatly appreciated.

Apologies again for the tight timeframe.

Sincerely

Ross

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875 | FAX (02) 6205 0866**  
**Chronic and Primary Health Policy Unit | Policy & Government Relations Branch | ACT Health**  
 LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)  
 Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 8:40 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** RE: Draft email for JACS and TAMS to nominate action officers

Thanks Stephanie

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 7 October 2015 4:56 PM  
**To:** Richter, Matthew (Health); Vosen, Kathleen (Health)  
**Subject:** FW: Draft email for JACS and TAMS to nominate action officers  
**Importance:** High

Sorry Matt and Kate, I should have copied you too.

Stephanie Marion-Landais, MPH | Senior Policy Officer  
 Phone (02) 6205 1875  
 Chronic and Primary Health Policy Unit | ACT Health  
 ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 7 October 2015 4:55 PM  
**To:** O'Donoghue, Ross (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** FW: Draft email for JACS and TAMS to nominate action officers  
**Importance:** High

Hi Ross and Susanna, here's the email with a slight amendment (Jackie's name/title). Stephanie

Dear Colleagues,

ACT Health's Policy and Government Relations Branch has received an urgent request to develop a government position on Mr Rattenbury's *Health (Patient Privacy) Amendment Bill 2015*. This Cabinet Submission will require consultation with both JACS (AFP) and TAMS and is due to Jackie Andersen, Senior Manager, Ministerial and Government Services, ACT Health by midday Tuesday, 13 October 2015.

Since the Submission will be considered by Cabinet during the 27-29 October 2015 sitting week (in lieu of the originally scheduled December sitting week), we will need to do some rapid consultation with your teams. If you could nominate action officers in your respective Branches **by tomorrow morning (08 October) at 9 am** that will be able to liaise with P&GR over the next few days, it would be greatly appreciated.

Apologies again for the tight timeframe.

Sincerely

Ross

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## **Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 9:41 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Attachments:** Signed letter to Health.pdf  
**Importance:** High

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.



Care ▲ Excellence ▲ Collaboration ▲ Integrity

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.



In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

### ***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

### ***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

***Care Excellence Collaboration Integrity***

## Marion-Landais, Stephanie (Health)

---

**From:** Nimpuno, Inez (Health)  
**Sent:** Thursday, 8 October 2015 9:45 AM  
**To:** Dal Molin, Vanessa (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** urgent - contact details of JACS  
**Attachments:** Input to ACT Health for Ministers Burch and Corbell - Abortion Clinic Ex....docx

Dear Vanessa, Jackie and Sonia

We need your help to find who is the contact in JACS in regard the input provided by JACS as attached.

The email string below would show you that the input provided by JACS was to be included in the completion of the MIN15/1054. The communication below shows that on 22 Sept, Vanessa attached the JACS input and provided to Health.

If you can come back to us as practicable as possible with the contact details, that would be greatly appreciated.

Kind regards, Inez

---

**From:** Richter, Matthew (Health)  
**Sent:** Tuesday, 22 September 2015 3:23 PM  
**To:** Nimpuno, Inez (Health)  
**Subject:** FW: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Inez

As discussed, need to incorporate the JACS advice in the attached word doc.

Thanks  
 Matt

---

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 22 September 2015 12:15 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** FW: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Coming back to you guys – Please let me know if you need any other information

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch

Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

**From:** Hogan, Sonia (Health)  
**Sent:** Tuesday, 22 September 2015 12:07 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Ryan, Denise (Health); Health Ministerial Liaison Officer; Sek, Gabrielle (Health); DDGCorporate  
**Subject:** RE: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Hi Kathleen- coming back to us- please can the above input be included- Ta Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Tuesday, 22 September 2015 11:32 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Ryan, Denise (Health); Health Ministerial Liaison Officer; Sek, Gabrielle (Health); DDGCorporate  
**Subject:** RE: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Sonia,  
 Just to let you know, I will be returning the abovementioned brief to MAGS for further work. As noted in my email below, we have been asked to prepare a consolidated brief for Minister Burch and Minister Corbell who are both meeting with the Women's Centre for Health Matters on 7 October.

In addition, input from JACS was sought, and is attached. Can this also be included in the briefing.

Thanks,  
 Vanessa

**Vanessa Dal Molin**

Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
 Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



**From:** Dal Molin, Vanessa (Health)  
**Sent:** Tuesday, 15 September 2015 10:46 AM  
**To:** Hogan, Sonia (Health); Sek, Gabrielle (Health); DDGCorporate  
**Cc:** Andersen, Jackie (Health); Ryan, Denise (Health); Health Ministerial Liaison Officer  
**Subject:** MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Hi Sonia and Gabrielle,

I understand that PGR are preparing a brief for the Minister's meeting with the Women's Centre for Health Matters. The Centre will also be meeting with Minister Burch earlier in the day on 7 October to discuss the same matters.

As a result, we have been asked to prepare a consolidated briefing for both Ministers, with relevant input from JACS and Police. Could you please advise the line area?

I have requested input from JACS and Police via the relevant DLOs, and have sought the input by Monday 28 September at the latest. Will forward on to you as soon as I receive.

Happy to discuss if there are any questions.

Thanks,  
 Vanessa

**Vanessa Dal Molin**

Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
 Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity











## **Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 10:16 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** RE: urgent - contact details of JACS

Thanks Stephanie

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 10:15 AM  
**To:** Vosen, Kathleen (Health); Richter, Matthew (Health)  
**Subject:** FW: urgent - contact details of JACS

FYI

**Stephanie Marion-Landais, MPH** | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Thursday, 8 October 2015 10:14 AM  
**To:** Nimpuno, Inez (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** RE: urgent - contact details of JACS

Hi Inez,  
 Sorry I missed your calls. I believe that the contacts in JACS in relation to the Bill are Alex Jorgensen (x70534) and Julie Field (x70522).  
 I understand that Alex prepared the actual input for the brief.

Hope that helps,

Thanks,  
 Vanessa

---

**From:** Nimpuno, Inez (Health)  
**Sent:** Thursday, 8 October 2015 9:45 AM  
**To:** Dal Molin, Vanessa (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** urgent - contact details of JACS

Dear Vanessa, Jackie and Sonia

We need your help to find who is the contact in JACS in regard the input provided by JACS as attached.

The email string below would show you that the input provided by JACS was to be included in the completion of the MIN15/1054. The communication below shows that on 22 Sept, Vanessa attached the JACS input and provided to Health.

If you can come back to us as practicable as possible with the contact details, that would be greatly appreciated.

Kind regards, Inez

---

**From:** Richter, Matthew (Health)  
**Sent:** Tuesday, 22 September 2015 3:23 PM  
**To:** Nimpuno, Inez (Health)  
**Subject:** FW: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Inez

As discussed, need to incorporate the JACS advice in the attached word doc.

Thanks  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 22 September 2015 12:15 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** FW: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Coming back to you guys – Please let me know if you need any other information

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Tuesday, 22 September 2015 12:07 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Ryan, Denise (Health); Health Ministerial Liaison Officer; Sek, Gabrielle (Health); DDGCorporate  
**Subject:** RE: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Hi Kathleen- coming back to us- please can the above input be included- Ta Sonia

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Tuesday, 22 September 2015 11:32 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Ryan, Denise (Health); Health Ministerial Liaison Officer; Sek, Gabrielle (Health); DDGCorporate  
**Subject:** RE: MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale - Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Sonia,  
Just to let you know, I will be returning the abovementioned brief to MAGS for further work. As noted in my email below, we have been asked to prepare a consolidated brief for Minister Burch and Minister Corbell who are both meeting with the Women's Centre for Health Matters on 7 October.

In addition, input from JACS was sought, and is attached. Can this also be included in the briefing.

Thanks,  
Vanessa

**Vanessa Dal Molin**

Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessadalmolin@act.gov.au](mailto:vanessadalmolin@act.gov.au)

**Care ▲ Excellence ▲ Collaboration ▲ Integrity**




---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Tuesday, 15 September 2015 10:46 AM  
**To:** Hogan, Sonia (Health); Sek, Gabrielle (Health); DDGCorporate  
**Cc:** Andersen, Jackie (Health); Ryan, Denise (Health); Health Ministerial Liaison Officer  
**Subject:** MIN15/1054 - Meeting - Women's Centre for Health Matters - Marcia Williams and Angela Carnovale -

Exposure draft of the Health (Patient Privacy) Amendment Bill 2015 (Exclusion Zones) - 7 October 2015, 2.00pm - 2.30pm

Hi Sonia and Gabrielle,

I understand that PGR are preparing a brief for the Minister's meeting with the Women's Centre for Health Matters. The Centre will also be meeting with Minister Burch earlier in the day on 7 October to discuss the same matters.

As a result, we have been asked to prepare a consolidated briefing for both Ministers, with relevant input from JACS and Police. Could you please advise the line area?

I have requested input from JACS and Police via the relevant DLOs, and have sought the input by Monday 28 September at the latest. Will forward on to you as soon as I receive.

Happy to discuss if there are any questions.

Thanks,  
Vanessa

**Vanessa Dal Molin**

Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 10:28 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Thursday, 8 October 2015 10:21 AM  
**To:** Vosen, Kathleen (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
 T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 7 October 2015 5:29 PM  
**To:** Field, Julie; Peters, Paul  
**Subject:** Health (Patient Privacy) Amendment Bill.

Dear Colleagues,

ACT Health's Policy and Government Relations Branch has received an urgent request to develop a government position on Mr Rattenbury's *Health (Patient Privacy) Amendment Bill 2015*. This Cabinet Submission will require consultation with both JACS (AFP) and TAMS and is due to Jackie Andersen, Senior Manager, Ministerial and Government Services, ACT Health by midday Tuesday, 13 October 2015. The Bill seeks to curtail protests against the performance of abortions at Health premises at 1 Moore St CIVIC.

Since the Submission will be considered by Cabinet during the 27-29 October 2015 sitting week (in lieu of the originally scheduled December sitting week), we will need to do some rapid consultation with your teams. If you could nominate action officers in your respective Branches **by tomorrow morning (08 October)** that will be able to liaise with P&GR over the next few days, it would be greatly appreciated. We will need a sense of a preliminary view on a preferred position from your agency by the end of this week!

Apologies again for the tight timeframe.

Sincerely

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**



## Marion-Landais, Stephanie (Health)

---

**From:** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 2:00 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Richter, Matthew (Health); Field, Julie; Jenkins, Pam; Beddoe, Julie; Wijemanne, Naveen  
**Subject:** Health (Patient Privacy Amendment) Bill 2015 brief  
**Attachments:** Clearance Page - 1892015.pdf

Hi Stephanie,

Please attached the brief that we provided to the Attorney-General in July 2015.

The brief notes that the Health (Patient Privacy) Amendment Bill 2015 is likely to be able to be compatible with human rights.

It also foreshadows that consultation with enforcement agencies and the Human Rights Commission

This could occur in the circulation of the Cabinet submission.

We received advice from GSO that the Bill was likely to be constitutionally valid.

I also note that the Victorian Government has announced an intention to introduce equivalent legislation.

Please let me know if you require anything further.

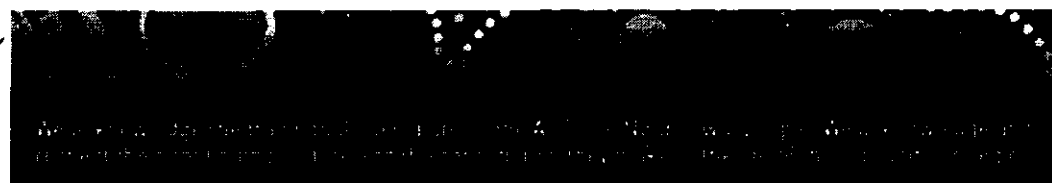
Thanks  
 Alex

Alexander Jorgensen-Hull | Senior Policy Officer (Civil Law)

Phone 02 6207 0534 | Fax 02 6205 0937

Legislation, Policy and Programs | Justice and Community Safety Directorate | ACT Government

Level 2, 12 Moore Street Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)




---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 1:24 PM  
**To:** Jorgensen, Alex  
**Cc:** Richter, Matthew (Health)  
**Subject:** FW: Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

Hi Alex,

Thank you for your voicemail and for getting back to me so quickly. Your offer to forward the Ministerial that you developed is greatly appreciated – it will be very helpful for us to have a look.

Thanks as well for the update from your ED about being supportive in principle of the Bill. My supervisor and I will be drafting the Cabinet Submission this afternoon and will keep you in the loop with our progress.

Kind regards,

Stephanie

**Stephanie Marion-Landais, MPH** | Senior Policy Officer

**Phone (02) 6205 1875**

**Chronic and Primary Health Policy Unit | ACT Health**

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Microsoft Outlook **On Behalf Of** Jorgensen, Alex

**Sent:** Thursday, 8 October 2015 11:55 AM

**To:** Marion-Landais, Stephanie (Health)

**Subject:** Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

**You received a voice mail from Jorgensen, Alex at 70534**

Caller-Id:	<u>70534</u>
Job Title:	Senior Policy Officer
Work:	<u>(02) 6207 0534</u>
E-mail:	<u>Alex.Jorgensen@act.gov.au</u>
IM Address:	<u>Alex.Jorgensen@act.gov.au</u>



Function Brief

Meeting with Angela Carnovale - Women's Centre for Health Matters

MIN:2015/005706



Correspondent:  
Receiving Minister

Tracking

Receipt date  
Date referred to directorate 27/08/2015  
Date due to Minister 30/09/2015  
Date response rec'd in MO / /

Action

Priority Routine Critical date  
Division JACS, LEGISLATION, POLICY AND PROGRAMS  
Required action  
For reply by  
Action officer ALEX TORGENSEN Ext. 70534  
Action notes

Clearance

Director-General: Approved   
Approved subject to changes indicated  / /  
Resubmit with changes indicated   
Deputy Director-General: Approved   
Approved subject to changes indicated  18/9/15  
Resubmit with changes indicated   
Chief Finance Officer Julie Field / /  
Executive Director Julie Field 17/9/2015

Notes:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Filing

External file number \_\_\_\_\_  
External file source \_\_\_\_\_  
Date Filed / /

\*When all action is complete, please file papers and provide file number.  
'External file source' is the record keeping system on which the file is captured (e.g. ACT Record Services, Objective IDMS etc).

**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 2:50 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** Fwd: Health (Patient Privacy) Amendment Bill.

Sent from my iPhone

Begin forwarded message:

**From:** "Peters, Paul" <[Paul.Peters@act.gov.au](mailto:Paul.Peters@act.gov.au)>  
**Date:** 8 October 2015 2:02:37 pm AEDT  
**To:** "O'Donoghue, Ross (Health)" <[Ross.O'Donoghue@act.gov.au](mailto:Ross.O'Donoghue@act.gov.au)>  
**Cc:** "Peters, Paul" <[Paul.Peters@act.gov.au](mailto:Paul.Peters@act.gov.au)>, "Mossop, Leonie" <[Leonie.Mossop@act.gov.au](mailto:Leonie.Mossop@act.gov.au)>, "Vosen, Kathleen (Health)" <[Kathleen.Vosen@act.gov.au](mailto:Kathleen.Vosen@act.gov.au)>, "Polinelli, Anthony" <[Anthony.Polinelli@act.gov.au](mailto:Anthony.Polinelli@act.gov.au)>  
**Subject:** Health (Patient Privacy) Amendment Bill.

Hello Ross,

Thank you for your email.

I have been advised that the below request is best addressed by Leonie Mossop Senior Manager of the TAMS Ministerial Assembly and Cabinet Services team.

Thank you.

**Fleur Beveridge | Executive Assistant to Paul Peters**  
**Ph: (02) 6207 5063 |**  
**Infrastructure, Roads and Public Transport | Territory & Municipal Services**  
**Directorate | ACT Government**  
**Macarthur House LYNEHAM ACT 2602 | GPO Box 158 Canberra ACT 2601 |**  
**[www.act.gov.au](http://www.act.gov.au)**

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 7 October 2015 5:29 PM  
**To:** Field, Julie; Peters, Paul  
**Subject:** Health (Patient Privacy) Amendment Bill.

Dear Colleagues,

ACT Health's Policy and Government Relations Branch has received an urgent request to develop a government position on Mr Rattenbury's *Health (Patient Privacy) Amendment Bill 2015*. This Cabinet Submission will require consultation with both JACS (AFP) and TAMS and is due to Jackie Andersen, Senior Manager, Ministerial and Government Services, ACT Health by midday Tuesday, 13 October 2015. The Bill seeks to curtail protests against the performance of abortions at Health premises at 1 Moore St CIVIC.

Since the Submission will be considered by Cabinet during the 27-29 October 2015 sitting week (in lieu of the originally scheduled December sitting week), we will need to do some rapid consultation with your teams. If you could nominate action officers in your respective Branches **by tomorrow morning (08 October)** that will be able to liaise with P&GR over the next few days, it would be

greatly appreciated. We will need a sense of a preliminary view on a preferred position from your agency by the end of this week!

Apologies again for the tight timeframe.

Sincerely

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
**T (02) 620 50568 | M 0434 073 390**

## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 1:41 PM  
**To:** Vosen, Kathleen (Health); Richter, Matthew (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** RE: Health (Patient Privacy) Amendment Bill.

Thanks very much for your help!

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 1:41 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.  
**Importance:** High

Hi Stephanie

I just spoke to Fleur, who is still chasing this up with Paul – he has been in meetings all day, but she understands the urgency re the request

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 11:37 AM  
**To:** Beveridge, Fleur  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.  
**Importance:** High

Hi Fleur

Here is the email that Ross sent to Paul late yesterday

I know that very little notice is being given, but if you could please help that would be great

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate

ACT Health Directorate

ph: 6205 0832

mobile: 0466443276

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 8 October 2015 10:28 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.

Regards,

**Kathleen Vosen**

Executive Officer

Policy and Government Relations Branch

Strategy and Corporate

ACT Health Directorate

ph: 6205 0832

mobile: 0466443276

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Thursday, 8 October 2015 10:21 AM  
**To:** Vosen, Kathleen (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill.

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 7 October 2015 5:29 PM  
**To:** Field, Julie; Peters, Paul  
**Subject:** Health (Patient Privacy) Amendment Bill.

Dear Colleagues,

ACT Health's Policy and Government Relations Branch has received an urgent request to develop a government position on Mr Rattenbury's *Health (Patient Privacy) Amendment Bill 2015*. This Cabinet Submission will require consultation with both JACS (AFP) and TAMS and is due to Jackie Andersen, Senior Manager, Ministerial and Government Services, ACT Health by midday Tuesday, 13 October 2015. The Bill seeks to curtail protests against the performance of abortions at Health premises at 1 Moore St CIVIC.

Since the Submission will be considered by Cabinet during the 27-29 October 2015 sitting week (in lieu of the originally scheduled December sitting week), we will need to do some rapid consultation with your teams. If you could nominate action officers in your respective Branches **by tomorrow morning (08 October)** that will be able to liaise with P&GR over the next few days, it would be greatly appreciated. We will need a sense of a preliminary view on a preferred position from your agency by the end of this week!

Apologies again for the tight timeframe.

Sincerely

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
**T (02) 620 50568 | M 0434 073 390**

**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 2:18 PM  
**To:** Richter, Matthew (Health)  
**Attachments:** GBC15-303 - MIN Health (Patient Privacy) Bill 2015 - 08 Oct 2015.doc; MIN15-1054 - Input from JACS re Health (Patient Privacy) Bill.docx; GBC15-190 Dot Points\_health (PP) Bill 2015 v1.doc; GBC15-190 Fast Facts\_health (PP) Bill 2015 v1.doc; GBC15-190 Min Brief Health (PP) Bill 2015.doc; GBC15-190 Min Brief Health (PP) Bill 2015\_Att A media pts.doc

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Matt,

Here are a few of the Ministerials, fast facts and media points that have been previously prepared on the Health (Patient Privacy) Amendment Bill. I also attached a draft of the GBC15-303 Ministerial that I am currently working on.

Stephanie

**Stephanie Marion-Landais, MPH** | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*



































## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:10 PM  
**To:** Sloan, Sean  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: Health (Patient Privacy) Amendment Bill

Hi Sean,

I forgot to mention that I am out of office on Fridays and Mondays. When you respond, could you kindly copy my supervisor, Matt Richter? I have copied him on this email.

Thank you,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 4:35 PM  
**To:** Sloan, Sean  
**Subject:** Health (Patient Privacy) Amendment Bill

Hi Sean,

Thanks for chatting with me today about the Health (Patient Privacy) Amendment Bill. As discussed, could you send me your thoughts about who you think would be responsible for regulating the proposed exclusion zones?

If you'll allow one follow up question –

if the exclusion zones were applied more broadly and, for example, were put in place in another location to limit protesters from infringing on people's privacy in another location – say an environmental protest to cutting down trees somewhere in Canberra – who in your opinion would regulate the implementation of those exclusion zones?

Thanks again.

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875 | FAX (02) 6205 0866**  
**Chronic and Primary Health Policy Unit | Policy & Government Relations Branch | ACT Health**  
 LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)  
 Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:11 PM  
**To:** Jorgensen, Alex  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Hi Alex,

I forgot to mention that I am out of office on Fridays and Mondays. When you respond, could you please copy my supervisor Matt Richter? I have copied Matt on this email.

Thank you,

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer  
 Phone (02) 6205 1875  
 Chronic and Primary Health Policy Unit | ACT Health  
 ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 4:19 PM  
**To:** Jorgensen, Alex  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Hello again,

I noted in your brief that you wrote "consultation with police and the Director of Public Prosecutions would be necessary to determine the enforceability of the offences in the HPPA Bill."

Do you have a suggestion on the way forward for that? For example, should we contact the AFP and DPP now or just note in the Cabinet Submission that further work relating to implementation will need to take place?

Thanks for your advice.

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer  
 Phone (02) 6205 1875  
 Chronic and Primary Health Policy Unit | ACT Health  
 ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 2:06 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Sorry. Now attached.

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 2:05 PM  
**To:** Jorgensen, Alex  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief



Thanks again, Alex. I was only able to see a clearance page attached. Could you try to resend the brief please?

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 2:00 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Richter, Matthew (Health); Field, Julie; Jenkins, Pam; Beddoe, Julie; Wijemanne, Naveen  
**Subject:** Health (Patient Privacy Amendment) Bill 2015 brief

Hi Stephanie,

Please attached the brief that we provided to the Attorney-General in July 2015.

The brief notes that the Health (Patient Privacy) Amendment Bill 2015 is likely to be able to be compatible with human rights.

It also foreshadows that consultation with enforcement agencies and the Human Rights Commission

This could occur in the circulation of the Cabinet submission.

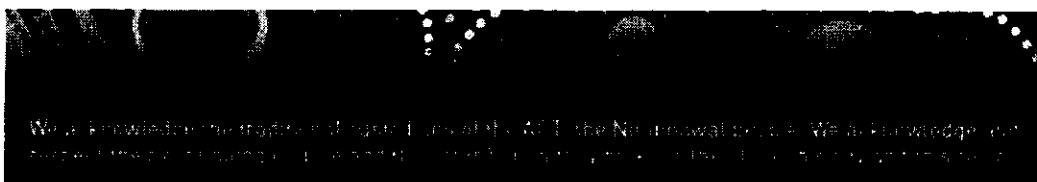
We received advice from GSO that the Bill was likely to be constitutionally valid.

I also note that the Victorian Government has announced an intention to introduce equivalent legislation.

Please let me know if you require anything further.

Thanks  
 Alex

Alexander Jorgensen-Hull | Senior Policy Officer (Civil Law)  
**Phone 02 6207 0534 | Fax 02 6205 0937**  
**Legislation, Policy and Programs | Justice and Community Safety Directorate | ACT Government**  
 Level 2, 12 Moore Street Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)




---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 1:24 PM  
**To:** Jorgensen, Alex  
**Cc:** Richter, Matthew (Health)  
**Subject:** FW: Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

Hi Alex,

Thank you for your voicemail and for getting back to me so quickly. Your offer to forward the Ministerial that you developed is greatly appreciated – it will be very helpful for us to have a look.

Thanks as well for the update from your ED about being supportive in principle of the Bill. My supervisor and I will be drafting the Cabinet Submission this afternoon and will keep you in the loop with our progress.

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Microsoft Outlook **On Behalf Of** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 11:55 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

**You received a voice mail from Jorgensen, Alex at 70534**

Caller-Id: [70534](#)  
Job Title: Senior Policy Officer  
Work: [\(02\) 6207 0534](#)  
E-mail: [Alex.Jorgensen@act.gov.au](mailto:Alex.Jorgensen@act.gov.au)  
IM Address: [Alex.Jorgensen@act.gov.au](mailto:Alex.Jorgensen@act.gov.au)

**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:50 PM  
**To:** Dunstan, David  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment 2015  
**Attachments:** Health (Patient Privacy) Amendment Bill - Explanatory Statement.PDF; Health (Patient Privacy) Amendment Bill 2015 - Exposure Draft.PDF

Hi David,

Thank you for chatting with me this afternoon about the Health (Patient Privacy) Amendment Bill 2015. I attached a copy of the proposed bill and explanatory statement for you to forward to the EPD leasing team. Apologies for the tight timeframe but we are hoping to have the Cabinet Submission to our DG by Tuesday midday.

If you or your colleagues have any comments or questions please contact my supervisor, Matt Richter (copied on this email).

Thanks again.

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*



## Marion-Landais, Stephanie (Health)

---

**From:** Jorgensen, Alex  
**Sent:** Friday, 9 October 2015 11:55 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** Jenkins, Pam; Beddoe, Julie  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Hi Matt and Steph,

In terms of consultation you may like to draw the attention of ACT Police to the Bill by forwarding a copy to [ACT-MPP-Legislation-&-Policy@afp.gov.au](mailto:ACT-MPP-Legislation-&-Policy@afp.gov.au) - address emails to Legislation and Policy team.

You can seek input of DPP by emailing Jon White, Director of Public Prosecutions at [Jon.White@act.gov.au](mailto:Jon.White@act.gov.au).

My understanding is that the Cabinet circulation process can also involve circulation to both these agencies.

Let me know if I can be of further assistance.

Thanks  
 Alex

Alexander Jorgensen-Hull | Senior Policy Officer (Civil Law)  
 Phone 02 6207 0534 | Fax 02 6205 0937  
 Legislation, Policy and Programs | Justice and Community Safety Directorate | ACT Government  
 Level 2, 12 Moore Street Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)




---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:11 PM  
**To:** Jorgensen, Alex  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Hi Alex,

I forgot to mention that I am out of office on Fridays and Mondays. When you respond, could you please copy my supervisor Matt Richter? I have copied Matt on this email.

Thank you,

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer  
 Phone (02) 6205 1875  
 Chronic and Primary Health Policy Unit | ACT Health  
 ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 4:19 PM  
**To:** Jorgensen, Alex  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Hello again,

I noted in your brief that you wrote "consultation with police and the Director of Public Prosecutions would be necessary to determine the enforceability of the offences in the HPPA Bill."

Do you have a suggestion on the way forward for that? For example, should we contact the AFP and DPP now or just note in the Cabinet Submission that further work relating to implementation will need to take place?

Thanks for your advice.

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer  
Phone (02) 6205 1875  
Chronic and Primary Health Policy Unit | ACT Health  
ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 2:06 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Sorry. Now attached.

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 2:05 PM  
**To:** Jorgensen, Alex  
**Subject:** RE: Health (Patient Privacy Amendment) Bill 2015 brief

Thanks again, Alex. I was only able to see a clearance page attached. Could you try to resend the brief please?

Stephanie Marion-Landais, MPH | Senior Policy Officer  
Phone (02) 6205 1875  
Chronic and Primary Health Policy Unit | ACT Health  
ACT Health work days: Tuesdays, Wednesdays and Thursdays

---

**From:** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 2:00 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Richter, Matthew (Health); Field, Julie; Jenkins, Pam; Beddoe, Julie; Wijemanne, Naveen  
**Subject:** Health (Patient Privacy Amendment) Bill 2015 brief

Hi Stephanie,

Please attached the brief that we provided to the Attorney-General in July 2015.

The brief notes that the Health (Patient Privacy) Amendment Bill 2015 is likely to be able to be compatible with human rights.

It also foreshadows that consultation with enforcement agencies and the Human Rights Commission

This could occur in the circulation of the Cabinet submission.

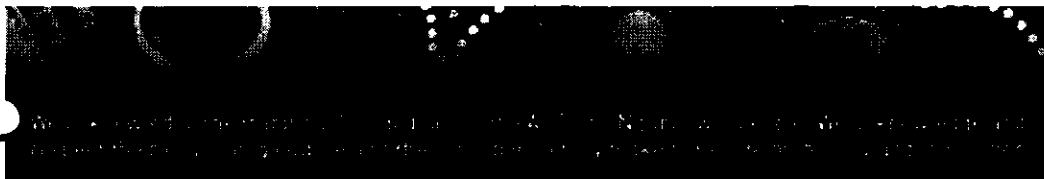
We received advice from GSO that the Bill was likely to be constitutionally valid.

I also note that the Victorian Government has announced an intention to introduce equivalent legislation.

Please let me know if you require anything further.

Thanks  
Alex

Alexander Jorgensen-Hull | Senior Policy Officer (Civil Law)  
**Phone 02 6207 0534** | Fax 02 6205 0937  
**Legislation, Policy and Programs** | Justice and Community Safety Directorate | **ACT Government**  
 Level 2, 12 Moore Street Canberra ACT 2601 | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)




---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 1:24 PM  
**To:** Jorgensen, Alex  
**Cc:** Richter, Matthew (Health)  
**Subject:** FW: Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

Hi Alex,

Thank you for your voicemail and for getting back to me so quickly. Your offer to forward the Ministerial that you developed is greatly appreciated – it will be very helpful for us to have a look.

Thanks as well for the update from your ED about being supportive in principle of the Bill. My supervisor and I will be drafting the Cabinet Submission this afternoon and will keep you in the loop with our progress.

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit** | ACT Health  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Microsoft Outlook **On Behalf Of** Jorgensen, Alex  
**Sent:** Thursday, 8 October 2015 11:55 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Voice Mail from Jorgensen, Alex (1 minute and 29 seconds)

**You received a voice mail from Jorgensen, Alex at 70534**

Caller-Id: 70534  
 Job Title: Senior Policy Officer  
 Work: (02) 6207 0534

E-mail: [Alex.Jorgensen@act.gov.au](mailto:Alex.Jorgensen@act.gov.au)  
IM Address: [Alex.Jorgensen@act.gov.au](mailto:Alex.Jorgensen@act.gov.au)



**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Friday, 9 October 2015 7:18 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Re: Health (Patient Privacy) Amendment 2015

Thanks Stephanie. We are in the MINs office Monday on this as well . Have a nice weekend

Sent from my iPhone

On 9 Oct 2015, at 7:15 pm, Marion-Landais, Stephanie (Health) <[Stephanie.Marion-Landais@act.gov.au](mailto:Stephanie.Marion-Landais@act.gov.au)> wrote:

FYI

---

**From:** Dunstan, David  
**Sent:** Friday 9 October 2015 16:21  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Saad, Monica; Chapman, Maggie  
**Subject:** RE: Health (Patient Privacy) Amendment 2015

Hi Stephanie

Thanks for raising this with me – could I suggest that the Cabinet submission include a line that further consultation with EPD is required to assess whether there are any property/leasing implications with respect to implementation of the proposed measure. Which would permit more time for further more detailed discussions on this.

Regards  
David D

**David Dunstan | Manager, Legislation Services**  
Phone: +61 2 6207 1716 Email: [david.dunstan@act.gov.au](mailto:david.dunstan@act.gov.au)  
Mobile: 0409005824  
Government Services, Communications and Legislation Services | Environment and Planning  
Directorate | ACT Government  
Level 3, Dame Pattie Menzies House | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:50 PM  
**To:** Dunstan, David  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment 2015

Hi David,

Thank you for chatting with me this afternoon about the Health (Patient Privacy) Amendment Bill 2015. I attached a copy of the proposed bill and explanatory statement for you to forward to the EPD leasing team. Apologies for the tight timeframe but we are hoping to have the Cabinet Submission to our DG by Tuesday midday.

If you or your colleagues have any comments or questions please contact my supervisor, Matt Richter (copied on this email).

Thanks again.

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Friday, 9 October 2015 7:15 PM  
**To:** Richter, Matthew (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment 2015

FYI

---

**From:** Dunstan, David  
**Sent:** Friday 9 October 2015 16:21  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Saad, Monica; Chapman, Maggie  
**Subject:** RE: Health (Patient Privacy) Amendment 2015

Hi Stephanie

Thanks for raising this with me – could I suggest that the Cabinet submission include a line that further consultation with EPD is required to assess whether there are any property/leasing implications with respect to implementation of the proposed measure. Which would permit more time for further more detailed discussions on this.

Regards  
David D

**David Dunstan | Manager, Legislation Services**  
Phone: +61 2 6207 1716 Email: [david.dunstan@act.gov.au](mailto:david.dunstan@act.gov.au)  
Mobile: 0409005824  
Government Services, Communications and Legislation Services | Environment and Planning Directorate | ACT Government  
Level 3, Dame Pattie Menzies House | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 8 October 2015 5:50 PM  
**To:** Dunstan, David  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment 2015

Hi David,

Thank you for chatting with me this afternoon about the Health (Patient Privacy) Amendment Bill 2015. I attached a copy of the proposed bill and explanatory statement for you to forward to the EPD leasing team. Apologies for the tight timeframe but we are hoping to have the Cabinet Submission to our DG by Tuesday midday.

If you or your colleagues have any comments or questions please contact my supervisor, Matt Richter (copied on this email).

Thanks again.

Stephanie

**Stephanie Marion-Landais, MPH | Senior Policy Officer**  
Phone (02) 6205 1875 | FAX (02) 6205 0866  
**Chronic and Primary Health Policy Unit | Policy & Government Relations Branch | ACT Health**  
LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Monday, 12 October 2015 2:05 PM  
**To:** Costello, Sean  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill 2015

**Importance:** High

Hello Sean

I am writing regarding the Health (Patient Privacy) Amendment Bill 2015, which proposes amongst other things, introduction of restricted activity zones around clinics providing for termination of pregnancy in the ACT.

I understand the ACT Human Rights Commission has provided a submission to the ACT Greens on the matter and have indicated that there might be a number of amendments that could assist in making the Bill more workable.

Are you able to share these, or provide some advice to me in this regard.

I am preparing a submission to ACT Cabinet in which the government position is being established and your input would be most helpful.

We are on a tight timeframe and have been requested to turn a submission around quickly by tomorrow.

Kind regards

Matt

**Matthew Richter** | Senior Manager

**Phone (02) 6207 9143** | Fax (02) 6205 0866

**Policy and Government Relations** | **ACT Health** | **ACT Government**

Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

*Care ▲ Excellence ▲ Collaboration ▲ Integrity*

**Marion-Landais, Stephanie (Health)**

---

**From:** Costello, Sean  
**Sent:** Monday, 12 October 2015 2:29 PM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health); Thilagaratnam, Renuka; Hingston, Matt; Durkin, Mary; Watchirs, Helen; Barnard, Belinda  
**Subject:** RE: Health (Patient Privacy) Amendment Bill 2015

Thanks Matthew

As with all our submissions of this sort, the submission is publicly available on our website at:

<http://hrc.act.gov.au/educationpublications/publications/>

Please contact Renuka or myself if you would like to discuss further.

Thanks again

Sean

---

**From:** Richter, Matthew (Health)  
**Sent:** Monday, 12 October 2015 2:05 PM  
**To:** Costello, Sean  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hello Sean

I am writing regarding the Health (Patient Privacy) Amendment Bill 2015, which proposes amongst other things, introduction of restricted activity zones around clinics providing for termination of pregnancy in the ACT.

I understand the ACT Human Rights Commission has provided a submission to the ACT Greens on the matter and have indicated that there might be a number of amendments that could assist in making the Bill more workable.

Are you able to share these, or provide some advice to me in this regard.

I am preparing a submission to ACT Cabinet in which the government position is being established and your input would be most helpful.

We are on a tight timeframe and have been requested to turn a submission around quickly by tomorrow.

Kind regards  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 10:21 AM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Attachments:** Signed letter to Health.pdf  
**Importance:** High

Hi Guys

Just checking how you are going with this.

Let me know if you need any help

Regards,

**Kathleen Vosen**

Executive Officer

Policy and Government Relations Branch

Strategy and Corporate

ACT Health Directorate

ph: 6205 0832

mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

Regards,  
Sonia Hogan

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.



Care ▲ Excellence ▲ Collaboration ▲ Integrity

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.



- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

### ***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

### ***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

## Marion-Landais, Stephanie (Health)

---

**From:** White, Jon  
**Sent:** Tuesday, 13 October 2015 11:35 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** Flukes, Emma  
**Subject:** RE: Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

The DPP does not generally comment upon policy proposals. The method of enforcement of exclusion zones is a matter of policy and we have no comment upon this.

Regards

Jon White SC

DPP

---

**From:** Flukes, Emma  
**Sent:** Tuesday, 13 October 2015 10:55 AM  
**To:** White, Jon  
**Subject:** FW: Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Jon,

As discussed.

Emma

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Tuesday, 13 October 2015 10:54 AM  
**To:** Flukes, Emma  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Dear Emma,

Thank you for fast-tracking this.

As discussed on the phone, ACT Health Policy and Government Relations Branch has been working on an urgent Cabinet Submission on the Health (Patient Privacy) Amendment Bill 2015. This is the Bill that proposes exclusion zones be implemented around clinics that provide pregnancy termination services.

Could you tell me where the DPP might stand on the enforcement of exclusion zones in this context? For example, two options currently being discussed are police enforcement and Director General enforcement (warnings, fines, etc).

Please find the Bill at the ACT Legislation Register here and note that it is the "Bill as presented" not the explanatory statement: [http://www.legislation.act.gov.au/b/db\\_52769/default.asp](http://www.legislation.act.gov.au/b/db_52769/default.asp)

Apologies in advance for the tight timeframe – we're hoping to put something up to our DG by this afternoon.

Kind regards,

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer  
 Phone (02) 6205 1875 | FAX (02) 6205 0866  
 Chronic and Primary Health Policy Unit | Policy & Government Relations Branch | ACT Health

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 5:47 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Subject:** GBC15-303\_Gov position on Health (patient privacy) amendment bill 2015 v 1  
**Attachments:** GBC15-303\_Gov position on Health (patient privacy) amendment bill 2015 v 1.doc

Hi Matt and Stephanie,

Just some comments and suggested amendments.

Accept ( or not) as you see fit.

Please send through other documents when you are ready..





















































































## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 8:35 PM  
**To:** Richter, Matthew (Health); Eadie, Catherine (Health); Marion-Landais, Stephanie (Health)  
**Subject:** FW: C-i-C: GBC15-303\_Gov position on Health (patient privacy) amendment bill 20151  
**Attachments:** GBC15-303 - MIN Brief CAB15-581\_Health (Patient Privacy) Bill 2015v2.doc; GBC15-303 - Attach A\_Letter from Corbell to Barr re Govt Position - 08 Oct 2015.doc; CAB15-581\_Submission-Health (patient privacy) amendment bill 2015 v4.doc; CAB15-581\_Attachment A TBL.docx

**Importance:** High  
**Sensitivity:** Confidential

Hi Matt ( and everyone),

It looks good. I made a few track changes and comments that you can accept or ignore.

Just to double check – i have set out the list of documents that we were asked to provide. Although I am not familiar what form it is supposed to take, we are supposed to have a 'Government Position on the Bill' – this appears to be different to the Cab Sub? Is this correct?

Also, just to confirm – the Comms strategy is still being done? Have we confirmed it is ok to develop this at a later date.

Great work at getting this done in time.

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- **Government position on the Bill.**
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- **Communications strategy (attachment to Cab sub)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Tuesday, 13 October 2015 7:20 PM  
**To:** Vosen, Kathleen (Health); Marion-Landais, Stephanie (Health); Eadie, Catherine (Health)  
**Subject:** C-i-C: GBC15-303\_Gov position on Health (patient privacy) amendment bill 20151  
**Importance:** High  
**Sensitivity:** Confidential

Cabinet – in - confidence

Team

Attached is the package. The TBL is still to be completed first thing – I have cut Stephanie's TBL information into the template for now.

I have moved away from the domestic violence material in the sub as discussed this afternoon. I think this material is better referred to in the disadvantaged and vulnerable section of the TBL.

Thanks for all your assistance, see you in the AM  
 Matt

Q:\CS\Central\Policy Division\PRIMARY CARE\Ministerials & Briefs\Cabinet Submissions\GBC15-303 Gov Position on Health(patient privacy) amendment bill 2015

**Matthew Richter** | Senior Manager  
**Phone (02) 6207 9143** | Fax (02) 6205 0866  
**Policy and Government Relations | ACT Health | ACT Government**  
Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
*Care ▲ Excellence ▲ Collaboration ▲ Integrity*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 5:47 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Subject:** GBC15-303\_Gov position on Health (patient privacy) amendment bill 2015 v 1

Hi Matt and Stephanie,

Just some comments and suggested amendments.

Accept ( or not) as you see fit.

Please send through other documents when you are ready..







**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Tuesday, 13 October 2015 10:54 AM  
**To:** Flukes, Emma  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Dear Emma,

Thank you for fast-tracking this.

As discussed on the phone, ACT Health Policy and Government Relations Branch has been working on an urgent Cabinet Submission on the Health (Patient Privacy) Amendment Bill 2015. This is the Bill that proposes exclusion zones be implemented around clinics that provide pregnancy termination services.

Could you tell me where the DPP might stand on the enforcement of exclusion zones in this context? For example, two options currently being discussed are police enforcement and Director General enforcement (warnings, fines, etc).

Please find the Bill at the ACT Legislation Register here and note that it is the "Bill as presented" not the explanatory statement: [http://www.legislation.act.gov.au/b/db\\_52769/default.asp](http://www.legislation.act.gov.au/b/db_52769/default.asp)

Apologies in advance for the tight timeframe – we're hoping to put something up to our DG by this afternoon.

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*



**Marion-Landais, Stephanie (Health)**

---

**From:** Andersen, Jackie (Health)  
**Sent:** Tuesday, 13 October 2015 6:26 PM  
**To:** Vosen, Kathleen (Health); Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Orubuloye, Chris (Health); Dorrell, Susanna (Health); Richter, Matthew (Health); Carey, Megan (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Thanks Kathleen

Even though we do have a revised Cabinet date of 26 October (as advised at the Health Briefing this week), it will be good to get this across by the end of the week for the Minister to have time to review.

Regards

Jackie Andersen

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 5:25 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Orubuloye, Chris (Health); Dorrell, Susanna (Health); Richter, Matthew (Health); Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Everyone,

I apologise for not getting this through by close of business- Today.

It looks like we will be able to have the documents cleared by Ross first thing tomorrow. I hope this is ok

Regards,

**Kathleen Vosen**

Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

#### ***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

#### ***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i)

is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

***Care Excellence Collaboration Integrity***

## Marion-Landais, Stephanie (Health)

---

**From:** Richter, Matthew (Health)  
**Sent:** Tuesday, 13 October 2015 7:05 PM  
**To:** Andersen, Jackie (Health); Vosen, Kathleen (Health); Hogan, Sonia (Health); O'Donoughue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Orubuloye, Chris (Health); Dorrell, Susanna (Health); Carey, Megan (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Finishing touches are going on now, will be ready first thing.

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Andersen, Jackie (Health)  
**Sent:** Tuesday, 13 October 2015 6:26 PM  
**To:** Vosen, Kathleen (Health); Hogan, Sonia (Health); O'Donoughue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Orubuloye, Chris (Health); Dorrell, Susanna (Health); Richter, Matthew (Health); Carey, Megan (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Thanks Kathleen

Even though we do have a revised Cabinet date of 26 October (as advised at the Health Briefing this week), it will be good to get this across by the end of the week for the Minister to have time to review.

Regards

Jackie Andersen

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Tuesday, 13 October 2015 5:25 PM  
**To:** Hogan, Sonia (Health); O'Donoughue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Orubuloye, Chris (Health); Dorrell, Susanna (Health); Richter, Matthew (Health); Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Everyone,

I apologise for not getting this through by close of business- Today.

It looks like we will be able to have the documents cleared by Ross first thing tomorrow. I hope this is ok

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate

ph: 6205 0832  
mobile: 0466443276

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

#### ***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

#### ***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government’s own Bill before the Private or Executive Member’s Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member’s Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet’s benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government’s Bill introduced before the Private or Executive Member’s Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*







**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 14 October 2015 9:30 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Cuts .doc  
**Attachments:** Cuts .doc

Here is that sutff about access and vulnerability. Might not need it but incase











































































**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 14 October 2015 11:24 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** 3. 15-380 Attachment B Communications Strategy.docx  
**Attachments:** 3. 15-380 Attachment B Communications Strategy.docx























**Marion-Landais, Stephanie (Health)**

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 14 October 2015 3:00 PM  
**To:** Carey, Megan (Health)  
**Cc:** O'Donoghue, Ross (Health); Richter, Matthew (Health); Vosen, Kathleen (Health); Marion-Landais, Stephanie (Health)  
**Subject:** Comms Strategy for GBC15-303 - Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** GBC15-303 - Attachment B Communications Strategy v2.docx

Hi Megan,

Attached is the Communications Strategy for GBC15-303 – Health (Patient Privacy) Amendment Bill 2015.

Kind regards,

Stephanie

Stephanie Marion-Landais, MPH | Senior Policy Officer

Phone (02) 6205 1875 | FAX (02) 6205 0866

Chronic and Primary Health Policy Unit | Policy & Government Relations Branch | ACT Health

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

ACT Health work days: Tuesdays, Wednesdays and Thursdays

























**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Wednesday, 14 October 2015 3:37 PM  
**To:** Richter, Matthew (Health)  
**Cc:** Andersen, Jackie (Health); Vosen, Kathleen (Health); Orubuloye, Chris (Health); Hogan, Sonia (Health); O'Donoughue, Ross (Health); Marion-Landais, Stephanie (Health)  
**Subject:** Re: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

It's sorted people. Ta

On 14 Oct 2015, at 3:34 PM, Richter, Matthew (Health) <[Matthew.Richter@act.gov.au](mailto:Matthew.Richter@act.gov.au)> wrote:

Colleagues,  
 Coms strategy provided in the attached.  
 Regards  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 3:27 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Carey, Megan (Health); Richter, Matthew (Health); O'Donoughue, Ross (Health)  
**Subject:** Re: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Folder is on my desk as delivered by Ross for review. I intend to take to DG tomorrow.

My understanding from Megan is that this was still being checked out re Comms strategy. Not sure if the request to do this was sent through?

Can we please clarify  
 Thanks

On 14 Oct 2015, at 3:21 PM, Vosen, Kathleen (Health) <[Kathleen.Vosen@act.gov.au](mailto:Kathleen.Vosen@act.gov.au)> wrote:

Hi Chris

I think you may find it just went up.

Let me know if it doesn't get to you

---

**From:** Orubuloye, Chris (Health)  
**Sent:** Wednesday, 14 October 2015 3:13 PM  
**To:** Vosen, Kathleen (Health); Hogan, Sonia (Health); Andersen, Jackie (Health); Carey, Megan (Health)  
**Cc:** Richter, Matthew (Health); O'Donoughue, Ross (Health)

**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT

Hi Kathleen,

Just wanted to check if a Comms strategy is now being prepared for this?

Cheers

Chris

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 14 October 2015 6:46 AM  
**To:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT  
**Importance:** High

Dear Chris and Jackie,

Regarding the documents that you are expecting today - I just wanted to confirm the following:

The following documents will be provided.

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A Cabinet submission; and
- Triple Bottom Line assessment (attachment to Cab sub).

I have been advised that the Government position is presented within the Cab Sub rather than a separate document.

In addition, there is no Comms strategy at this stage.- Given that it is not a government initiative and that there has not been much time to undertake government implementation planning (which really will commence once a government position is formally adopted).

Can you confirm that this is ok?

Many thanks

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*

<image001.jpg>

**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill

2015

**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government’s own Bill before the Private or Executive Member’s Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member’s Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet’s benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government’s Bill introduced before the Private or Executive Member’s Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

<mime-attachment>

## Marion-Landais, Stephanie (Health)

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 14 October 2015 10:31 AM  
**To:** White, Jon  
**Subject:** RE: Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Thank you Jon. Noted.

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** White, Jon  
**Sent:** Tuesday, 13 October 2015 11:35 AM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Cc:** Flukes, Emma  
**Subject:** RE: Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

The DPP does not generally comment upon policy proposals. The method of enforcement of exclusion zones is a matter of policy and we have no comment upon this.

Regards

Jon White SC

DPP

---

**From:** Flukes, Emma  
**Sent:** Tuesday, 13 October 2015 10:55 AM  
**To:** White, Jon  
**Subject:** FW: Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Jon,

As discussed.

Emma

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Tuesday, 13 October 2015 10:54 AM  
**To:** Flukes, Emma  
**Cc:** Richter, Matthew (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill 2015 - DPP input requested

Dear Emma,

Thank you for fast-tracking this.

As discussed on the phone, ACT Health Policy and Government Relations Branch has been working on an urgent Cabinet Submission on the Health (Patient Privacy) Amendment Bill 2015. This is the Bill that proposes exclusion zones be implemented around clinics that provide pregnancy termination services.



Could you tell me where the DPP might stand on the enforcement of exclusion zones in this context? For example, two options currently being discussed are police enforcement and Director General enforcement (warnings, fines, etc).

Please find the Bill at the ACT Legislation Register here and note that it is the "Bill as presented" not the explanatory statement: [http://www.legislation.act.gov.au/b/db\\_52769/default.asp](http://www.legislation.act.gov.au/b/db_52769/default.asp)

Apologies in advance for the tight timeframe – we're hoping to put something up to our DG by this afternoon.

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## Marion-Landais, Stephanie (Health)

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 14 October 2015 1:19 PM  
**To:** Andersen, Jackie (Health)  
**Subject:** RE: Health (Patient Privacy) Amendment Bill

All covered off.

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 12:57 PM  
**To:** O'Donoghue, Ross (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill

Hi Ross

Further to our conversation, here are Vanessa's dot points for your information.

regards

**Jackie Andersen** | Senior Manager  
 Ministerial and Government Services  
 ACT Health | ACT Government  
 Phone: 6205 0829 | Mobile: 0466 169 984  
 Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity




---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Wednesday, 14 October 2015 12:08 PM  
**To:** Andersen, Jackie (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill

Jackie,  
 This is what I've prepared for Monday's meeting summary in relation to the Health (Patient Privacy) Amendment Bill. Will have the full summary across to you this afternoon.  
 Thanks,  
 Vanessa

**Health (Patient Privacy) Amendment Bill 2015 (Discussion with Ross O'Donoghue)**

It was noted that a formal Government Position will be required for the October sitting week. The Minister's preference is to support the Bill. However, the Minister indicated that he will require additional detail for consideration as soon as possible:

- Considerations around the prescribed exclusion area – whether the distances prescribed in the Bill are suitable, or whether a shorter distance is more desirable.
- Advice around filming within the exclusion zone area.
- Advice on whether it would be preferable for the legislation to indicate that the Minister could declare the size of the exclusion zone (with a minimum area to be specified in the legislation) via disallowable instrument.
- Advice around the application of the Human Rights Act. Minister noted that Health should liaise with JACS, who has already prepared advice on this issue.
- Advice on the Penalty Units regime, and how it is to be administered.

It was noted that this submission would most likely be considered by Cabinet on 26 October 2015.

The Minister also suggested that ACT Health should look at accessing the submissions which Minister Rattenbury received as part of the exposure Bill process. These should be available online.

**Action:**

ACT Health to prepare a submission outlining the Government's position in relation to the Bill, in accordance with the Minister's direction (outlined above).



## Marion-Landais, Stephanie (Health)

---

**From:** Prentice, Helen (Health)  
**Sent:** Wednesday, 14 October 2015 3:32 PM  
**To:** Andersen, Jackie (Health); Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Dorrell, Susanna (Health)  
**Subject:** RE: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Hi Ross – Nicole requested the paper be submitted to her before she is able to have an effective discussion with you.

Many thanks  
Helen

**Helen Prentice**  
Executive Assistant to the Director-General, Nicole Feely

Tel: (02) 6205 0823  
Website: [www.health.act.gov.au](http://www.health.act.gov.au)  
Level 3, 11 Moore Street Civic  
PO Box 825 Canberra City ACT 2601




---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
Ministerial and Government Services

ACT Health | ACT Government  
Phone: 6205 0829 | Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



## Marion-Landais, Stephanie (Health)

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 14 October 2015 3:34 PM  
**To:** Andersen, Jackie (Health); Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Carey, Megan (Health); O'Donoghue, Ross (Health); Marion-Landais, Stephanie (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Attachments:** Comms Strategy for GBC15-303 - Health (Patient Privacy) Amendment Bill 2015

Colleagues,  
 Coms strategy provided in the attached.  
 Regards  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
*Care ▲ Excellence ▲ Collaboration ▲ Integrity*

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 3:27 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Carey, Megan (Health); Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** Re: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Folder is on my desk as delivered by Ross for review. I intend to take to DG tomorrow.

My understanding from Megan is that this was still being checked out re Comms strategy. Not sure if the request to do this was sent through?

Can we please clarify  
 Thanks

On 14 Oct 2015, at 3:21 PM, Vosen, Kathleen (Health) <[Kathleen.Vosen@act.gov.au](mailto:Kathleen.Vosen@act.gov.au)> wrote:

Hi Chris

I think you may find it just went up.

Let me know if it doesn't get to you

---

**From:** Orubuloye, Chris (Health)  
**Sent:** Wednesday, 14 October 2015 3:13 PM  
**To:** Vosen, Kathleen (Health); Hogan, Sonia (Health); Andersen, Jackie (Health); Carey, Megan (Health)  
**Cc:** Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Hi Kathleen,

Just wanted to check if a Comms strategy is now being prepared for this?

Cheers

Chris

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 14 October 2015 6:46 AM  
**To:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Dear Chris and Jackie,

Regarding the documents that you are expecting today - I just wanted to confirm the following:

The following documents will be provided.

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A Cabinet submission; and
- Triple Bottom Line assessment (attachment to Cab sub).

I have been advised that the Government position is presented within the Cab Sub rather than a separate document.

In addition, there is no Comms strategy at this stage.- Given that it is not a government initiative and that there has not been much time to undertake government implementation planning (which really will commence once a government position is formally adopted).

Can you confirm that this is ok?

Many thanks

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?



- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*

<image001.jpg>

**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

#### ***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

#### ***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government's own Bill before the Private or Executive Member's Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are

fundamental or substantial difficulties with the Private or Executive Member's Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet's benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government's Bill introduced before the Private or Executive Member's Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

## Marion-Landais, Stephanie (Health)

---

**From:** Carey, Megan (Health)  
**Sent:** Wednesday, 14 October 2015 3:37 PM  
**To:** Richter, Matthew (Health)  
**Cc:** Andersen, Jackie (Health); Vosen, Kathleen (Health); Orubuloye, Chris (Health); Hogan, Sonia (Health); O'Donoghue, Ross (Health); Marion-Landais, Stephanie (Health)  
**Subject:** Re: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

It's sorted people. Ta

On 14 Oct 2015, at 3:34 PM, Richter, Matthew (Health) <[Matthew.Richter@act.gov.au](mailto:Matthew.Richter@act.gov.au)> wrote:

Colleagues,  
 Coms strategy provided in the attached.  
 Regards  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 3:27 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Carey, Megan (Health); Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** Re: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015 URGENT

Folder is on my desk as delivered by Ross for review. I intend to take to DG tomorrow.

My understanding from Megan is that this was still being checked out re Comms strategy. Not sure if the request to do this was sent through?

Can we please clarify  
 Thanks

On 14 Oct 2015, at 3:21 PM, Vosen, Kathleen (Health) <[Kathleen.Vosen@act.gov.au](mailto:Kathleen.Vosen@act.gov.au)> wrote:

Hi Chris

I think you may find it just went up.

Let me know if it doesn't get to you

---

**From:** Orubuloye, Chris (Health)  
**Sent:** Wednesday, 14 October 2015 3:13 PM  
**To:** Vosen, Kathleen (Health); Hogan, Sonia (Health); Andersen, Jackie (Health); Carey, Megan (Health)  
**Cc:** Richter, Matthew (Health); O'Donoghue, Ross (Health)

**Subject:** RE: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT

Hi Kathleen,

Just wanted to check if a Comms strategy is now being prepared for this?

Cheers

Chris

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 14 October 2015 6:46 AM  
**To:** Orubuloye, Chris (Health); Hogan, Sonia (Health); Andersen, Jackie (Health)  
**Cc:** Richter, Matthew (Health); O'Donoghue, Ross (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT  
**Importance:** High

Dear Chris and Jackie,

Regarding the documents that you are expecting today - I just wanted to confirm the following:

The following documents will be provided.

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission;
- A Cabinet submission; and
- Triple Bottom Line assessment (attachment to Cab sub).

I have been advised that the Government position is presented within the Cab Sub rather than a separate document.

In addition, there is no Comms strategy at this stage.- Given that it is not a government initiative and that there has not been much time to undertake government implementation planning (which really will commence once a government position is formally adopted).

Can you confirm that this is ok?

Many thanks

---

**From:** Hogan, Sonia (Health)  
**Sent:** Thursday, 8 October 2015 9:36 AM  
**To:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Cc:** Smith, Kim (Health); Rucinski, Gul (Health); Sek, Gabrielle (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy)  
Amendment Bill 2015 URGENT  
**Importance:** High

Hi Kathleen and Ross,

Please note critical time frames in relation to this Bill.

Minister Rattenbury will debate this bill in the October sitting week, and that the Cabinet submission will now be considered by Cabinet on **20 October 2015 and not 8 December** as we were initially advised.

Now the Cabinet office wants to know the following.

- When the first draft package will be ready to circulate for information?
- When we will have a final package to the Minister for approval.

Please also note that the Cabinet office has advised that for this submission to be considered by Cabinet on 20 October, Thursday 15 October is the latest date to allow Cabinet office to load to ipads.

This suggests that everything has to be ready and approved by the Minister before Thursday next week. Therefore, as discussed yesterday we will need to be with Kim next Tuesday.

Apologies for the tight timeframe - Sonia.

**Regards,**  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*

<image001.jpg>

**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orbuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Thursday, 8 October 2015 9:27 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Andersen, Jackie (Health); Carey, Megan (Health)  
**Subject:** FW: GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

---

**From:** Orbuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 23 September 2015 3:53 PM  
**To:** Hogan, Sonia (Health); DDGCorporate; Sek, Gabrielle (Health)  
**Cc:** Carey, Megan (Health); Ryan, Denise (Health)  
**Subject:** GBC15/303 - Government Position Health (Patient Privacy) Amendment Bill

2015

**Importance:** High

Hi Sonia,

On 17 September Mr Rattenbury MLA presented Health (Patient Privacy) Amendment Bill 2015 in the Legislative Assembly.

ACT Health is required to develop a government position on this matter within 3 months from the date of presentation in the Assembly – by 17 December 2015. The government position will need to be cleared by Cabinet. The Cabinet number for is 15/581.

The government position should canvas the operational impact of the proposed legislation and details such as commencement and provisions.

In this case, in order to meet the timeframe a submission has to be considered by Cabinet no later than 8 December 2015.

Could you please advise the appropriate officer to prepare the following re the Health (Patient Privacy) Amendment Bill 2015:

- A brief to the Minister advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- A letter from the Minister to the CM advising of the proposed Government Position on the EMB and seek agreement to progress a Cabinet Submission.
- Government position on the Bill.
- A Cabinet submission
- Triple Bottom Line assessment (attachment to Cab sub)
- Communications strategy (attachment to Cab sub)

The information below might be relevant in preparing the government's position on the matter.

In examining a Private or Executive Members' Bill, it is important that consultation occurs as early as possible with PCO, Cabinet and other agencies which may have an interest.

***Advice to the Chief Minister***

Relevant Ministers are expected to advise the Chief Minister at the earliest opportunity on the proposed approach for handling Private or Executive Members' Bills. The letter to the Chief Minister should address:

- the contents and full implications (including any financial considerations) of the Private or Executive Members' Bill;
- the proposed government policy position where this differs from the policy intent of the Private or Executive Members' Bill, and associated implications (including any financial considerations);
- the outcome of consultation with relevant agencies; and
- how the Bill should be handled in the Assembly.

***Handling of Private or Executive Members' Bills in the Assembly***

There are four broad options:

- (i) **Oppose the Bill** – this may be the appropriate course of action if it becomes clear that the substance of the Bill is against government policy and there is little or no merit in pursuing options (iii) or (iv);
- (ii) **Support the Bill** – this is only appropriate if the substance of the Bill is consistent with government policy or acceptable to the government;
- (iii) **Move Government amendments when the Bill comes up for debate** – this is the preferred course of action for effecting modifications to the Bill; and
- (iv) **Introduce the Government’s own Bill before the Private or Executive Member’s Bill comes up for debate** – this is a last resort measure to be adopted in exceptional circumstances, such as when option (i) is not appropriate/feasible and there are fundamental or substantial difficulties with the Private or Executive Member’s Bill which cannot be resolved through Government amendments.

If option (i), (ii) or (iii) is proposed, the relevant Minister should seek to have the matter considered by Cabinet as soon as possible. Any proposed government amendments will of course need to be spelt out for Cabinet’s benefit.

In the case of option (iv), the relevant Minister should advise the Chief Minister of the firm timetable for bringing forward a full Cabinet Submission on the legislation proposal. The timetable for such action would usually be extremely tight, bearing in mind the need to have the Government’s Bill introduced before the Private or Executive Member’s Bill comes up for debate. It is important that the Manager of Government Business Coordination and the Cabinet Office be consulted on the viability of any proposed timetable in the first instance

A green GBC folder has been prepared containing this information for you to use.

Please let me know if you have further questions.

Thank you

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
 Ministerial and Government Services  
 Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street; Canberra ACT 2600 |  
 Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

<mime-attachment>



## Marion-Landais, Stephanie (Health)

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Tuesday, 5 January 2016 4:13 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 14 October 2015 4:31 PM  
**To:** Andersen, Jackie (Health)  
**Cc:** O'Donoghue, Ross (Health); Dorrell, Susanna (Health); Webster, Elizabeth (Health); Summerrell, Jessica (Health)  
**Subject:** RE: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Hi All, just to let you know I have provided this to Kim for his information, Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Prentice, Helen (Health)  
**Sent:** Wednesday, 14 October 2015 4:22 PM  
**To:** Andersen, Jackie (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoghue, Ross (Health); Dorrell, Susanna (Health); Webster, Elizabeth (Health); Summerrell, Jessica (Health)  
**Subject:** RE: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Thanks Jackie for the updates.

Best  
 Helen

**Helen Prentice**  
 Executive Assistant to the Director-General, Nicole Feely

Tel: (02) 6205 0823  
 Website: [www.health.act.gov.au](http://www.health.act.gov.au)  
 Level 3, 11 Moore Street Civic  
 PO Box 825 Canberra City ACT 2601




---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 4:20 PM  
**To:** Prentice, Helen (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoghue, Ross (Health); Dorrell, Susanna (Health); Webster, Elizabeth (Health); Summerrell, Jessica (Health)  
**Subject:** Re: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Hi Helen  
 Thus in in process of approval clearance processes. I intend to have this to Nicole tomorrow afternoon

The Cabinet Date is now 26 October.

Regards  
 Jackie

On 14 Oct 2015, at 3:31 PM, Prentice, Helen (Health) <[Helen.Prentice@act.gov.au](mailto:Helen.Prentice@act.gov.au)> wrote:

Hi Ross – Nicole requested the paper be submitted to her before she is able to have an effective discussion with you.

Many thanks  
 Helen

**Helen Prentice**  
 Executive Assistant to the Director-General, Nicole Feely

Tel: (02) 6205 0823  
 Website: [www.health.act.gov.au](http://www.health.act.gov.au)  
 Level 3, 11 Moore Street Civic  
 PO Box 825 Canberra City ACT 2601

<image002.jpg>

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
Ministerial and Government Services  
ACT Health | ACT Government  
Phone: 6205 0829 | Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



## Marion-Landais, Stephanie (Health)

---

**From:** Prentice, Helen (Health)  
**Sent:** Wednesday, 14 October 2015 4:22 PM  
**To:** Andersen, Jackie (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoughue, Ross (Health); Dorrell, Susanna (Health); Webster, Elizabeth (Health); Summerrell, Jessica  
**Subject:** RE: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Thanks Jackie for the updates.

Best  
Helen

### Helen Prentice

Executive Assistant to the Director-General, Nicole Feely

Tel: (02) 6205 0823

Website: [www.health.act.gov.au](http://www.health.act.gov.au)

Level 3, 11 Moore Street Civic

PO Box 825 Canberra City ACT 2601




---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 14 October 2015 4:20 PM  
**To:** Prentice, Helen (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoughue, Ross (Health); Dorrell, Susanna (Health); Webster, Elizabeth (Health); Summerrell, Jessica (Health)  
**Subject:** Re: Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Hi Helen

Thus in in process of approval clearance processes. I intend to have this to Nicole tomorrow afternoon

The Cabinet Date is now 26 October.

Regards  
Jackie

On 14 Oct 2015, at 3:31 PM, Prentice, Helen (Health) <[Helen.Prentice@act.gov.au](mailto:Helen.Prentice@act.gov.au)> wrote:

Hi Ross – Nicole requested the paper be submitted to her before she is able to have an effective discussion with you.

Many thanks  
Helen

### Helen Prentice

Executive Assistant to the Director-General, Nicole Feely

Tel: (02) 6205 0823

Website: [www.health.act.gov.au](http://www.health.act.gov.au)

Level 3, 11 Moore Street Civic

PO Box 825 Canberra City ACT 2601

<image002.jpg>

---

**From:** Andersen, Jackie (Health)  
**Sent:** Wednesday, 7 October 2015 3:24 PM  
**To:** Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Cc:** Vosen, Kathleen (Health); Richter, Matthew (Health); Hogan, Sonia (Health); Smith, Kim (Health); Dorrell, Susanna (Health); Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Dal Molin, Vanessa (Health); Feely, Nicole (Health)  
**Subject:** Urgent : Government Position Health (Patient Privacy) Amendment Bill 2015 - GBC15/303

Ross

Following discussions with Vanessa this afternoon, it is proposed that Minister Rattenbury will debate this bill will be in the October sitting week ( 27 -29 Oct).

This means that the Government position needs to be finalised, **approved by the Minister and with Cabinet by 20 October 2015.**

Consultation with JACS (Alex Jorgensen and Julie Field (head of LPP)) and the AFP / TAMS? also requested as soon as possible.

Can you please follow up to ensure that this is with MAGS by next week midday Tuesday 14 October 2015 – cleared by Kim Smith for progression to Nicole and the Minister.

Happy to discuss this further to ensure that we are all on the same page and can meet the deadline.  
Thanks

**Jackie Andersen** | Senior Manager  
Ministerial and Government Services  
ACT Health | ACT Government  
Phone: 6205 0829 | Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:19 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Cc:** Hogan, Sonia (Health); Vosen, Kathleen (Health)  
**Subject:** FW: HP Records Manager Correspondence : COR15/12994 : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

**Attachments:** Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015.DOCX

Hi Matt and Stephanie

Can you please contact Jess Summerrell to develop this comms strategy further as a matter of priority.

Jess made some comments on it and i'll send them through next.

~Ta  
Megan

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

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:18 PM  
**To:** Carey, Megan (Health)  
**Subject:** HP Records Manager Correspondence : COR15/12994 : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/12994  
Title : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:21 PM  
**To:** Marion-Landais, Stephanie (Health); Richter, Matthew (Health)  
**Subject:** comments on comms strategy from Jess  
**Attachments:** 20151015115811166.pdf

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

**From:** [MP8001@act.gov.au](mailto:MP8001@act.gov.au) [<mailto:MP8001@act.gov.au>]  
**Sent:** Thursday, 15 October 2015 12:58 PM  
**To:** Carey, Megan (Health)  
**Subject:** Message from "MOOREB11L03P11"

This E-mail was sent from "MOOREB11L03P11" (Aficio MP 8001).

Scan Date: 15.10.2015 11:58:11 (+1000)  
Queries to: [MP8001@act.gov.au](mailto:MP8001@act.gov.au)

























**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:22 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Subject:** RE: HP Records Manager Correspondence : COR15/12994 : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

PS am aware I rushed this through with you so it would probably have been done if you had more time :-)

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

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:19 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Cc:** Hogan, Sonia (Health); Vosen, Kathleen (Health)  
**Subject:** FW: HP Records Manager Correspondence : COR15/12994 : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

Hi Matt and Stephanie

Can you please contact Jess Summerrell to develop this comms strategy further as a matter of priority.

Jess made some comments on it and i'll send them through next.

Ta  
Megan

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

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 15 October 2015 12:18 PM  
**To:** Carey, Megan (Health)  
**Subject:** HP Records Manager Correspondence : COR15/12994 : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/12994  
Title : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015









## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Friday, 16 October 2015 8:49 AM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015 PGR edits (V2).docx  
**Attachments:** Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015 PGR edits (V2).docx

For our information only – it has gone up

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Friday, 16 October 2015 8:37 AM  
**To:** Richter, Matthew (Health); Vosen, Kathleen (Health)  
**Subject:** FW: Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015 PGR edits (V2).docx

Hi- FYI- Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



Care ▲ Excellence ▲ Collaboration ▲ Integrity

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Brewer, Peter (Health)  
**Sent:** Thursday, 15 October 2015 5:20 PM  
**To:** Carey, Megan (Health)  
**Cc:** Hogan, Sonia (Health); Summerrell, Jessica (Health)  
**Subject:** Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015 PGR edits (V2).docx

Hi all:

Have tried to channel Jessica Summerrell and build in the changes she wanted to this strategy. I may have not succeeded.

But as Yoda said "There is no try".

Cheers

Peter B



## **Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 10:15 AM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: urgent - FW: Scrutiny Report 38 - identified actions  
**Attachments:** Report-38.pdf

Please see attached

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 21 October 2015 10:08 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** O'Donoghue, Ross (Health); DDGCorporate  
**Subject:** FW: urgent - FW: Scrutiny Report 38 - identified actions

Hi Kathleen- please can you forward to the attention of Stephanie Marion-Landes and Matt Richter that the Scrutiny Committee made some comments on Mr Rattenbury's Health (Patient Privacy) Amendment Bill 2015.  
 See page 10 of the attached document.

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately return email informing them of the mistake and delete all copies of the message from your computer system.

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY  
(LEGISLATIVE SCRUTINY ROLE)

SCRUTINY REPORT 38

20 OCTOBER 2015

## COMMITTEE MEMBERSHIP

Mr Steve Dospot MLA (Chair)

Dr Chris Bourke MLA (Deputy Chair)

Mrs Giulia Jones MLA

Ms Mary Porter AM, MLA

## SECRETARIAT

Mr Max Kiermaier (Secretary)

Ms Anne Shannon (Assistant Secretary)

Mr Peter Bayne (Legal Adviser—Bills)

Mr Stephen Argument (Legal Adviser—Subordinate Legislation)

## CONTACT INFORMATION

Telephone 02 6205 0173

Facsimile 02 6205 3109

Post GPO Box 1020, CANBERRA ACT 2601

Email [scrutiny@parliament.act.gov.au](mailto:scrutiny@parliament.act.gov.au)

Website [www.parliament.act.gov.au](http://www.parliament.act.gov.au)

## ROLE OF COMMITTEE

The Committee examines all Bills and subordinate legislation presented to the Assembly. It does not make any comments on the policy aspects of the legislation. The Committee's terms of reference contain principles of scrutiny that enable it to operate in the best traditions of totally non-partisan, non-political technical scrutiny of legislation. These traditions have been adopted, without exception, by all scrutiny committees in Australia. Non-partisan, non-policy scrutiny allows the Committee to help the Assembly pass into law Acts and subordinate legislation which comply with the ideals set out in its terms of reference.

## RESOLUTION OF APPOINTMENT

The Standing Committee on Justice and Community Safety when performing its legislative scrutiny role shall:

- (1) consider whether any instrument of a legislative nature made under an Act which is subject to disallowance and/or disapproval by the Assembly (including a regulation, rule or by-law):
  - (a) is in accord with the general objects of the Act under which it is made;
  - (b) unduly trespasses on rights previously established by law;
  - (c) makes rights, liberties and/or obligations unduly dependent upon non-reviewable decisions; or
  - (d) contains matter which in the opinion of the Committee should properly be dealt with in an Act of the Legislative Assembly;
- (2) consider whether any explanatory statement or explanatory memorandum associated with legislation and any regulatory impact statement meets the technical or stylistic standards expected by the Committee;
- (3) consider whether the clauses of bills (and amendments proposed by the Government to its own bills) introduced into the Assembly:
  - (a) unduly trespass on personal rights and liberties;
  - (b) make rights, liberties and/or obligations unduly dependent upon insufficiently defined administrative powers;
  - (c) make rights, liberties and/or obligations unduly dependent upon non-reviewable decisions;
  - (d) inappropriately delegate legislative powers; or
  - (e) insufficiently subject the exercise of legislative power to parliamentary scrutiny;
- (4) report to the Legislative Assembly about human rights issues raised by bills presented to the Assembly pursuant to section 38 of the *Human Rights Act 2004*;
- (5) report to the Assembly on these or any related matter and if the Assembly is not sitting when the Committee is ready to report on bills and subordinate legislation, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.

## TABLE OF CONTENTS

<b>BILLS</b>	<b>1</b>
<b>BILL—NO COMMENT</b>	<b>1</b>
Building (Loose-fill Asbestos Eradication) Legislation Amendment Bill 2015	1
Lotteries Amendment Bill 2015	1
Rates Amendment Bill 2015	1
<b>BILLS—COMMENT</b>	<b>1</b>
Children and Young People Amendment Bill 2015 (No 3)	1
Crimes (Domestic and Family Violence) Legislation Amendment Bill 2015	1
Health (Patient Privacy) Amendment Bill 2015	10
Lotteries (Approvals) Amendment Bill 2015	10
Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Bill 2015	11
<b>PROPOSED GOVERNMENT AMENDMENTS</b>	<b>12</b>
<b>SUBORDINATE LEGISLATION</b>	<b>12</b>
<b>DISALLOWABLE INSTRUMENTS—NO COMMENT</b>	<b>12</b>
<b>DISALLOWABLE INSTRUMENTS—COMMENT</b>	<b>13</b>
<b>GOVERNMENT RESPONSES</b>	<b>14</b>
<b>OUTSTANDING RESPONSES</b>	<b>15</b>

## BILLS

### BILL—NO COMMENT

The Committee has examined the following bills and offers no comment on them:

#### BUILDING (LOOSE-FILL ASBESTOS ERADICATION) LEGISLATION AMENDMENT BILL 2015

This is a Bill to amend Territory laws to a number of amendments to facilitate the implementation of the demolition and resale components of the Loose-fill Asbestos Insulation Eradication Scheme that was announced by Government on 28 October 2014.

#### LOTTERIES AMENDMENT BILL 2015

This is a Bill to amend the *Lotteries Act 1964* to provide a definition of the requirements for an entity who intends to enter into a lottery agreement with a lottery operator.

#### RATES AMENDMENT BILL 2015

This is a Bill to amend the *Rates Act 2004* to establish a methodology for changes in the unimproved value of airport lands.

### BILLS—COMMENT

The Committee has examined the following bills and offers these comments on them:

#### CHILDREN AND YOUNG PEOPLE AMENDMENT BILL 2015 (No 3)

This is a Bill for an Act to amend the *Children and Young People Amendment Act 2008* to give effect to a number of important elements of *A Step Up for Our Kids* (Out-of-home care Strategy 2015-2020) that was released by the ACT Government in January 2015.

**Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?— paragraph (3)(a) of the terms of reference**

#### **Report under section 38 of the Human Rights Act 2004**

The Explanatory Statement contains a careful statement of the human rights issues arising from the Bill and addresses justifications for limitations according to the framework stated in section 28 of the *Human Rights Act 2004* (HRA). The Committee refers Members of the Assembly to this statement.

#### CRIMES (DOMESTIC AND FAMILY VIOLENCE) LEGISLATION AMENDMENT BILL 2015

This is a Bill for an Act to amend the *Crimes Act 1900* to provide that strangulation that does not cause unconsciousness will be an act that endangers health; the *Domestic Violence and Protection Orders Act 2008* to create a category of an interim domestic violence order that would remain interim until any outstanding related criminal charges were finalised; and the *Evidence (Miscellaneous Provisions) Act 1991*, primarily to allow police records of interview of a complainant to family violence and all sexual offences to be admitted as evidence in chief.

*INTRODUCTION*

The Committee has addressed human rights issues that arise out of a bill of this kind on a number of occasions since 1998.<sup>1</sup> In those reports it stated a starting point for analysis of these issues that is similar to that stated in the Explanatory Statement at pages 1 to 4. Such bills are aimed at enhancing the prospect that those subject to violence in a family context may enjoy the benefit of various rights stated in the *Human Rights Act 2004* and those recognised by the common law. As the Explanatory Statement acknowledges, the manner in which such enhancement is proposed may also engage and limit the rights of others and, in particular of course, of persons who are alleged to have perpetrated the violence. Where a provision of a bill limits HRA rights, the proponent of the bill should offer a justification for the limitation in terms of the framework stated in HRA section 28. The Committee also expects that a similar kind of justification will be offered for any provision that limits a common law right.

From this standpoint, there are some aspects of the Bill that warrant a comment.

**Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?—  
paragraph (3)(a) of the terms of reference**

**Report under section 38 of the *Human Rights Act 2004***

*THE PROPOSED CREATION OF A CATEGORY OF "SPECIAL INTERIM ORDER" UNDER THE DOMESTIC VIOLENCE AND PROTECTION ORDERS ACT 2008*

The current *Domestic Violence and Protection Orders Act 2008* ("the Act") empowers the Magistrates Court to make an "interim order" on an application for a final domestic violence order. The court must be satisfied on the matters stated in section 29, and these include, in particular, that the order is necessary to ensure the safety of the aggrieved person or a child of that person. There are provisions of the Act that limit the periods during which an interim order has effect. These time limits are stated having regard to the fact that an interim order may restrain the respondent in ways that could cause hardship to and severely restrict the exercise by the respondent of various of the HRA rights, such as the right to move freely and to reside in her or his usual place of residence.

In part 3 of the Bill, it is proposed to define the concept of an interim order so that it would embrace two kinds of such orders, being (1) a "special interim order", and (2) (as a residual category) a "general interim order".

Clause 12 of the Bill proposes to insert section 30A into the Act, and paragraph 30A(1)(a) would permit the Magistrates Court, when making an interim order, to make a special interim order if "(i) the application is for a final domestic violence order; and (ii) there is a related charge outstanding in relation to the respondent; ...". A related charge is a charge against the respondent where that person is "a relevant person in relation to the aggrieved person" (being a familial or domestic relationship) and the offence charged is a "domestic violence offence" (other than an offence against section 90 of the Act). Part 1.2 of Schedule 1 of the Act specifies a large range of offences for this purpose.

<sup>1</sup> *Scrutiny Report No 3 of 1998*, concerning the Domestic Violence (Amendment) Bill 1998; *Scrutiny Report No 12 of 1998* (in Government Responses section); *Scrutiny Report No 4 of the Sixth Assembly* concerning the Domestic Violence and Protection Orders Amendment Bill 2005; and the *Scrutiny Report No 59 of the Sixth Assembly* concerning the Domestic Violence and Protection Orders Amendment Bill 2008.

Proposed division 4.3 of the Bill (see clause 30) specifies the periods for which a general interim order remains in force. The general rule is that it must not be in force for more than two years, but there is provision for the making of a further order (see clause 30, proposed section 41D), and for an extension where an adjournment has been necessary.

Proposed division 4.4 of the Bill (see clause 30) specifies the periods for which a special interim order remains in force. The basic rule is that the court cannot decide the application for the final order until all related charges are finalised (see section 42B). Also relevant is proposed section 34A of the Act (see clause 19), which provides that the return date for the application for the final order must be (a) not earlier than the day all related charges are finalised; and (b) not later than 21 days after the day all related charges are finalised.

In its discussion of division 4.4, the Explanatory Statement (at page 5) argues that the bar on the making of a final order until after outstanding criminal charges are finalised protects the respondent's right to a fair trial on those charges. The point here is that since the Magistrates Court cannot hold a hearing to determine if a final order should be made until after the charges have been finalised, the respondent/accused cannot be in effect compelled to give evidence (and, in particular, make admissions) prior to the trial on the charges.

On the other hand, it appears to be recognised that the "right to family" (referring to HRA subsection 11(1)) of the respondent/accused is limited due to the continued operation of the special interim order (page 5). It is also stated that "[a] person may also be punished with imprisonment if they breach the order, which engages their rights under section 18" (page 6).

The nub of the justification for limiting the rights of the respondent may be found in this statement at page 6 of the Explanatory Statement:

This Bill establishes a new category of "special" interim DVO to increase the protections available to victims of domestic violence where there are related criminal charges. The new orders may prevent the subject of the order from contacting or visiting their family in certain circumstances.

It is also stated that "[t]he purpose of the amendments discussed above is to protect victims of domestic and family violence from further traumatisation". These amendments include those in division 4.4, but it is unclear how they would protect against "further traumatisation". It is said further that:

there are no less restrictive means available to provide added protections for both respondents and applicants who are subject to a DVO with current related criminal charges. The orders will remain interim until after the related criminal charges are heard and a decision is made on the final orders. ... This amendment reflects the positive obligation of states to actively protect citizens from domestic and family violence.

The ability of the Magistrates Court to issue conditions appropriate for each person's circumstances, together with the right of review by the respondent to the orders provide safeguards which ensure the respondents rights are represented in the granting of special interim orders.



(The reference in the passage above to a “DVO” is potentially misleading. What is meant is a special interim order.) The Committee refers Members of the Assembly to the Explanatory Statement discussion at pages 11-12.

It may be asked, however, why is it considered necessary to create the separate category of special interim orders. Their effect is that the restrictions on the rights of the respondent that flow from the making of an interim order are automatically extended until the finalisation of the criminal charges. This may extend their operation beyond the current general rule that an interim order expires after two years. It seems to be assumed that this extension is necessarily warranted to protect the aggrieved person.

Under section 41 of the current Act, where an interim order that has ended or is about to end after two years, the Magistrates Court “may make a further general interim order if satisfied there are special or exceptional circumstances (having regard to the principles for making protection orders) that justify the making of a further general interim order”. (Proposed section 41D, which applies to a general interim order, is in identical terms.) The relevant principles are stated in section 7 of the Act, and would appear to require the court to consider whether there is in the particular case a need to make a new order to ensure that the aggrieved person, and any child is not at risk of exposure to domestic violence.

Section 41 of the current Act (and proposed section 41D) appear to provide a means to protect the aggrieved person and any child while at the same time ensuring that the limitations on the rights of the respondent involved in an extension beyond two years is warranted in the particular circumstances.

A matter to be considered is whether this means for protecting the aggrieved person by extending the operation of an interim domestic violence order will achieve that object while at the same time being less restrictive of the rights of the respondent.

**The Committee draws these matters to the attention of the Assembly and recommends that the Minister respond.**

#### *EVIDENCE IN DOMESTIC VIOLENCE PROCEEDINGS*

Clause 85 of the Bill proposes to insert a new part 4.3 into the *Evidence (Miscellaneous Provisions) Act 1991* (“the Act”) and is headed “Evidence in domestic violence proceedings”. Division 4.3.1 states definitions; division 4.3.2 permits the giving of certain evidence in closed court; and division 4.3.3 provides for certain recorded statements taken in a police interview to be admissible as evidence. These are complex provisions, but inasmuch as they limit some of the rights of a defendant to a criminal charge, they need to be carefully considered.

A key concept is that of a “domestic violence proceeding”. Somewhat simplified, this is a proceeding—which is likely to be a proceeding leading to a criminal trial of a person—for a domestic violence offence. The complainant for such an offence is a person against whom a domestic violence is alleged, or has been found, to have been committed and who is a relevant person in relation to the accused person. (“Relevant person” is defined in section 36B of the Act, and generally covers person in some familial or domestic relationship with the accused.<sup>2</sup>) (The concept of “recorded statement” will be considered later.)

<sup>2</sup> Section 36B is the current section 38B of the Act as it is proposed to be slightly amended by clauses 60 to 62 of the Bill.

### *EVIDENCE THAT MAY BE GIVEN IN A CLOSED COURT*

The relevant provision is proposed section 78 of the Act. It applies to a complainant giving evidence in a domestic violence offence proceeding if the court considers that the complainant has a vulnerability that affects the complainant's ability to give evidence because of either:

- the circumstances of the proceeding, or
- the complainant's circumstances (subsection 78(1)).

In such a case, "[t]he court may order that the court be closed to the public while all or part of the complainant's evidence (including evidence given under cross-examination) is given" (subsection 78(3)). It may be that the scope of this open-ended discretion is limited by subsection 78(4) which provides that the court "must consider" whether the complainant wants to give evidence in open court, and also whether "it is in the interests of justice that the complainant give evidence in open court".

An order made under proposed section 78 does not stop "a person nominated by the complainant" from being in court (paragraph 78(5)(a)). A point for clarification is whether more than one person may be nominated. The usual rule is that the singular includes the plural,<sup>3</sup> but perhaps in this instance it is intended that only one person may be nominated. If so, this limitation might be made more explicit.

In addition, an order does not stop from being in court a person who attends the proceeding to prepare a news report of the proceeding and is authorised to attend for that purpose by the person's employer (subsection 78(5)).<sup>4</sup>

#### Comment:

1. In the first place, it should be noted that "giving evidence" includes a case where a recorded statement is put in evidence under proposed division 4.3.3 (see subsection 78(6)). The section is however very clearly not restricted to this situation. The Explanatory Statement does understand this, but also states that of particular concern is evidence being given by a complainant "when they are being interviewed shortly after a traumatic event. The evidence is being taken at a time when the complainant is particularly vulnerable and it is important that they have the ability to seek to request the evidence be heard in a closed court" (Explanatory Statement at page 32). With respect, this does not make sense. Section 78 is dealing with evidence given on a trial, which may be, and usually is, months or even years after any interview they may have had with any person. It may be that the Explanatory Statement intends to refer to evidence under proposed division 4.3.3. The Victims of Crime Commissioner also seems to have asked for a restriction that relates only to this kind of evidence (see at page 32).

In the light of this material in the Explanatory Statement, there is a question whether the intention was to make provision for a closed court only in a case where a recorded statement is put in evidence under proposed division 4.3.3.

**The Committee draws this matter to the attention of the Assembly and recommends that the Minister respond.**

<sup>3</sup> See paragraph 145(b) of the *Legislation Act 2001*.

<sup>4</sup> Section 40 of the Act contains a prohibition on the publication of the name or identity of the complainant.

2. The discretion of the court under subsection 78(3) is practically unconfined. Even if subsection 78(4) qualifies the discretion, the notion of “the interests of justice” does little if anything to state a limit. These provisions are open to the objection that “[t]he broader and more loosely-textured a discretion is, whether conferred on an official or a judge, the greater the scope for subjectivity and hence for arbitrariness”.<sup>5</sup>

The right to a fair trial stated in HRA section 21 includes the right to a “public hearing”. Subsection 78(3) limits that right, and must be justified under HRA section 28. Subsection 28(1) provides that the limit must be “set by laws”, and this is usually taken to require that there must be a sufficient degree of predictability and certainty about how the limit will apply. It is arguable that an open-ended discretion does not satisfy this requirement.

The problem might be overcome by linking the exercise of the discretion to the threshold judgement required by subsection 78(1). This would be a less restrictive limit on the right of an accused to a trial by a public hearing.

3. Of necessity the accused must be present in court at all times, and also presumably her or his legal representatives. An issue is why the accused may not also nominate “a person” to be in court at the relevant times. In this connection, one possibility to consider is whether persons nominated by the accused might observe the proceedings in court by video link.

4. The more fundamental issue is whether providing for a closed court in these circumstances is justifiable. The right to a fair trial stated in HRA section 21 includes the right to a “public hearing” is fundamental to the fair and proper administration of justice. In its recent report *Traditional Rights and Freedoms*,<sup>6</sup> the Australian Law Reform Commission stated:

10.43 Open justice is one of the fundamental attributes of a fair trial. That the administration of justice must take place in open court is a ‘fundamental rule of the common law’. The High Court has said that ‘the rationale of the open court principle is that court proceedings should be subjected to public and professional scrutiny, and courts will not act contrary to the principle save in exceptional circumstances’.

10.44 In *Russell v Russell*, Gibbs J said that it is the ‘ordinary rule’ of courts of Australia that their proceedings shall be conducted ‘publicly and in open view’; without public scrutiny, ‘abuses may flourish undetected’. Gibbs J went on to say:

Further, the public administration of justice tends to maintain confidence in the integrity and independence of the courts. The fact that courts of law are held openly and not in secret is an essential aspect of their character. It distinguishes their activities from those of administrative officials, for ‘publicity is the authentic hall-mark of judicial as distinct from administrative procedure’.[footnotes omitted].

The Committee refers the Assembly to the justification offered in the Explanatory Statement at page 30 in particular.

<sup>5</sup> A proposition quoted with approval in Justice M J Beazley and M Pulsford, “Discretion and the rule of law in the criminal justice system” (2015) 89 ALJ 158 at 159. Justice Beazley is the President of the NSW Court of Appeal.

<sup>6</sup> ALRC Interim Report 127; the relevant parts are at <https://www.alrc.gov.au/publications/open-justice>

The Committee also draws attention to a Model Court Suppression and Non-publication Orders Bill issued in 2010 by the Standing Committee of Attorneys-General.<sup>7</sup> In part, this document provides:

**8. Grounds for making an order**

- (1) A court may make a suppression order or non-publication order on one or more of the following grounds:

...

- (d) the order is necessary to avoid causing undue distress or embarrassment to a party to or witness in criminal proceedings involving an offence of a sexual nature (including an act of indecency), ...<sup>8</sup>

This model provides support for a closed court provision such as section 78, but it raises another issue. Why should section 78 not also apply in favour of any witness on the trial, including the accused if they give evidence? Failure to make such provision might be viewed as a limitation of the entitlement of everyone “to the equal protection of the law without discrimination” stated in HRA subsection 8(3).

**The Committee draws these matters to the attention of the Assembly and recommends that the Minister respond.**

*THE ADMISSIBILITY OF EVIDENCE OF A RECORDED STATEMENT MADE TO THE POLICE BY A COMPLAINANT IN A DOMESTIC VIOLENCE PROCEEDING*

This topic is addressed in proposed division 4.3.3 of the Bill. In very general terms, these provisions are designed to allow for the admissibility of evidence of a recorded statement made to the police by a complainant in a domestic violence proceeding.

A key concept is that of a “recorded statement”. This is defined in section 77 (and found in part 4.3.1). Its primary meaning is that it is an audiovisual recording (made by a police officer) of a complainant answering questions of a police officer in relation to the investigation of a domestic violence offence.

Comment: There is a potential difficulty lying in the apparent restriction to matter in the recording that may be described as “answering questions”. This issue is further addressed immediately below.

Section 79 states additional characteristics of a recorded statement. It must be made “(a) as soon as practicable after the events mentioned in the statement happened; and (b) in the form of questions and answers” (subsection 79(1)). There are other conditions stated in section 79, and it is critical to note that in the statement the complainant must make a statement “about the truth of the representations made by the complainant in the recorded statement” (paragraph 79(2)(b)(ii)).<sup>9</sup>

<sup>7</sup> The Committee’s source for this document is P D Cummins, “Open Courts: Who Guards the Guardians?” (2014), available at <http://www.ruleoflaw.org.au/open-courts-suppression-orders/>

<sup>8</sup> This model has been adopted, for example, in section 37AG of the *Federal Court of Australia Act 1979*.

<sup>9</sup> The statement will be worthless as evidence of the existence of any facts asserted in the statement to be true unless the complainant states that what is asserted is true. There might be a rare case where an untrue statement would have evidential value.

**Comment:** There is a potential difficulty lying in the requirement that the statement must be made “in the form of questions and answers”. On its face, this excludes statements by the complainant that are made in narrative form; that is, that are not in response to a question asked by a police officer. On trial where the admissibility of a statement is put in question, a great deal of time could be spent debating and deciding how this limitation applied. **A matter for clarification** is whether this limitation is intended.

Sections 80 and 81 are the key provisions. Under subsection 80(1), a recorded statement may be played at the hearing of the relevant trial and be admitted as all or part of the complainant’s evidence in chief as if the complainant gave the evidence in person. (The complainant may give further evidence orally in chief from the witness box; subsection 80(5)).

Section 80 does not indicate the evidential value of the evidence of what the complainant said in the recorded statement. Given that the complainant must make a statement “about the truth of the representations” in the statement, it appears that the intention is that to this extent the statement is evidence of the truth of those representations. As such, the statement is evidence in a hearsay form, and the starting point is that it is inadmissible under section 59 of the *Evidence Act 2011*.<sup>10</sup> Subsection 81(1) addresses this issue by providing that “[t]he hearsay rule ... [does] do not prevent the admission or use of evidence of a representation in the form of a recorded statement only because it is in that form”. A Note to this provision states that “[t]he hearsay rule ... will apply to the content of the recorded statement to be admitted as evidence”.<sup>11</sup>

**Comment:** A difficult question arising here is what is meant by the words “in that form” in subsection 81(1). “Form” seems to refer to the form as stated in section 79. If the Note is correct, to be admissible as evidence of the truth of the facts asserted to exist (or to not exist) in the statement, the contents of the statement must fall within an exception (to be found in the Evidence Act) to the prohibition on the admissibility of hearsay evidence that is stated in section 59.

It is, however, difficult to find any exception that would cover at least most of the representations that will be found in a recorded statement of the kind described in proposed section 79. Subsection 66(1) of the Evidence Act provides for an exception where “in a criminal proceeding (if) a person who made a previous representation is available to give evidence about an asserted fact”. This would include a complainant of a kind under discussion here. By subsection 66(2), the complainant or another person (such as a police officer) “who saw, heard or otherwise perceived the representation being made” can give evidence of the fact that the representation was made (and the result is that the hearsay rule in section 59 will not apply to the statement).

But there are two critical limitations on the use of section 66. The first is that when the representation was made, “the happening of the asserted fact was fresh in the memory of the person who made the representation”. This is a broader qualification than is found in proposed paragraph 79(1)(a), which speaks of a statement made “as soon as practicable after the events mentioned in the statement happened”. (If this means as soon as it is practicable to make the statement to the police, in some cases, this could result in a gap in time of months or even of years.)

<sup>10</sup> Section 59(1) of the Evidence Act provides that “Evidence of a previous representation made by a person is not admissible to prove the existence of a fact that it can reasonably be supposed that the person intended to assert by the representation”.

<sup>11</sup> A Note to subsection 79(1) makes the broader statement that “[i]f the recorded statement is to be admitted as evidence in a proceeding, the rules of evidence apply to the content of the statement”.

The second (and probably more significant) qualification is found in subsection 66(4) of the Evidence Act, which states that:

If a representation was made for the purpose of indicating the evidence that the person who made it would be able to give in an Australian or overseas proceeding, subsection (2) does not apply to evidence presented by the prosecutor of the representation *unless the representation is about the identity of a person, place or thing.* [Emphasis added]

Assertions of facts in a recorded statement admissible under proposed section 80 will relate to matters much wider than those described in the exception to the operation of subsection 66(1) that is stated in subsection 66(4).

The point that emerges from the above analysis—assuming that it is correct—is that the limited displacement of the hearsay rule by proposed section 81 may result in the facility offered by section 80 being of little practical utility.

**The Committee draws this matter to the attention of the Minister and calls for a response.**

#### Rights issues arising from proposed section 80

For the purposes of further discussion, it will be assumed that the analysis above is incorrect, so that the assertions of fact made in a recorded statement by a complainant are admissible as evidence of the existence of those facts. The key rights issue arising are whether this result limits the right of the accused to a fair trial (HRA subsection 21(1)), and/or to the guarantee stated in HRA paragraph 22(2)(g) “to examine prosecution witnesses, or have them examined”.

Concerning the guarantee stated in HRA paragraph 22(2)(g), there is nothing in proposed division 4.3.3 to prevent an accused cross-examining the complainant. It appears that the drafters of the Explanatory Statement understood that the accused would be able to cross-examine the complainant. At page 29 it is said:

Section 22 provides that everyone charged with a criminal offence has the right to be presumed innocent until proved guilty according to law. A person charged with a criminal offence is also entitled to a number of minimum guarantees, including the ability to cross-examine prosecution witnesses. The amendments in new part 4.3 will engage an accused’s rights in criminal proceedings, but will not limit them, as the substantive changes affect how complainants give evidence in chief. The amendments will not limit the ability of an accused to examine witnesses or adduce evidence for their own submissions.

Perhaps the right to cross-examine is preserved because the admission into evidence of the recorded statement—which might perhaps be achieved without the need for the complainant to give any evidence to identify the document—stands in place of evidence in chief, and once admitted, the accused can exercise the right to cross-examine whether or not the complainant gives any oral evidence in chief.

**The Committee draws this analysis to the attention of the Minister and calls for a response.**

The argument that there is a limitation of the right to a fair trial might be put in this way. If a complainant is obliged to give oral evidence to the same extent as contents of the recorded statement, the accused (usually through their legal representatives) has the opportunity to observe the manner in which the evidence is given. These observations might then be a basis for cross-examination and/or the making of submissions as to the reliability of the complainant's evidence. Where the recorded statement stands in the place of the oral testimony, the accused is denied this opportunity.

**The Committee refers the Members of the Assembly to the Explanatory Statement justification for the provisions in division 4.3.3 at pages 28 to 29, and at pages 32 to 34.**

#### HEALTH (PATIENT PRIVACY) AMENDMENT BILL 2015

This is a Bill for an Act to amend the *Health Act 1993* to prevent certain behaviours within a defined area and within defined times around relevant declared medical facilities.

**Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?— paragraph (3)(a) of the terms of reference**

**Report under section 38 of the *Human Rights Act 2004***

The Explanatory Statement contains a careful statement of the human rights issues arising from the Bill and addresses justifications for limitations according to the framework stated in HRA section 28. The Committee refers Members of the Assembly to this statement.

#### LOTTERIES (APPROVALS) AMENDMENT BILL 2015

This is a Bill to amend the *Lotteries Act 1964* to extend the categories of lotteries to be conducted that do not require approval from the Commission.

*THE LIMITATION OF FREEDOM OF EXPRESSION STATED IN PROPOSED PARAGRAPH 6A(1)(E)*

**Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?— paragraph (3)(a) of the terms of reference**

**Report under section 38 of the *Human Rights Act 2004***

By proposed paragraph 6A(1)(e), an exempt lottery is subject to the condition that “the person conducting the lottery must not conduct the lottery or advertise the lottery in a way that, having regard to the lottery participants, could be considered inappropriate or offensive”. This is a clear limitation on the freedom of the person to express her or himself by way of an advertisement.<sup>12</sup> The provision engages and limits the HRA right to freedom of expression, and must be justified in terms of the standards and framework stated in HRA section 28.

(A point for clarification is just what result where a person conducting an exempt lottery breaches the condition in paragraph 6A(1)(e). For this discussion It is assumed that some adverse consequence might follow.)

<sup>12</sup> That the speech is made in the course of commerce is not relevant to this issue, although in particular circumstances it might be relevant to whether the limitation is justifiable.

The first issue is whether this limitation is one that is set by law (subsection 28(1)). This is usually taken to require that there must be a sufficient degree of predictability and certainty about how the limit will apply. It is arguable that this requirement is not met in this instance. There is firstly the terms used to state what may amount to unlawful speech. In *Monis v The Queen* [2013] HCA 4 at [47] French CJ said that “[w]hether or not located in the eye of a reasonable beholder and whether or not narrowly defined, offensiveness is a protean concept which is not readily contained unless limited by a clear statutory purpose and other criteria of liability”. The concept of an “inappropriate” advertisement is even broader, and the observations of French CJ apply with more force.

Secondly, there is the question of the standpoint from which a breach of the standards is to be assessed. Although it is still a very uncertain test, it is often in instances such as this to require that whether a breach has occurred is to be assessed in terms of how a “reasonable person” who might read the advertisement might react. In paragraph 6A(1)(e) however, this limitation is not expressed. (Of course, a court might read it in,<sup>13</sup> but it is desirable to avoid the need for a court to rule on the issue.) In any event, insertion of a reasonable person standard does little to narrow the prohibition.<sup>14</sup> Moreover, the test is not whether any person would consider the advertisement inappropriate or offensive, but whether they “could” do so.

If it is accepted that paragraph 6A(1)(e) does prescribe a limit “set by law”, it is arguable that in terms of subsection 28(1), this provision is not a “reasonable limit”. In making this assessment, regard must be had to the factors stated in subsection 28(2). The right affected—being freedom of expression—is taken by the courts and political theorists to be of a high order.<sup>15</sup> The limitation is important, in that advertising can mislead and induce undesirable behaviour. This limitation is however very extensive and in terms of achieving its purpose, and may be said to be a disproportionate reaction, or, to put it another way, there is no reasonable relationship between the limitation stated and its object. It would appear that there are less restrictive means reasonably available to achieve the purpose of the limitation. It is arguable that what is required is a limitation that in the words of French CJ, states “a clear statutory purpose and other criteria of liability”.

**The Committee draws these matters to the attention of the Assembly and recommends that the Minister respond.**

<p>SPENT CONVICTIONS (HISTORICAL HOMOSEXUAL CONVICTIONS EXTINGUISHMENT) AMENDMENT BILL 2015</p>
---

This is a Bill for an Act to amend the *Spent Convictions Act 2000* to extinguish convictions for certain homosexual offences, and for other purposes.

<sup>13</sup> *Ball v McIntyre* (1966) 9 Federal Law Reports 237 at 242-243 is an example.

<sup>14</sup> In *Monis v The Queen* [2013] HCA 4 at [70] French CJ said that “[t]he “reasonable persons” criterion, which is linked to imputed emotional reactions to the content of the communication, does not narrow the scope of the prohibition in its legal operation or effect”.

<sup>15</sup> In *Coleman v Power* [2004] HCA 39 at [248] Kirby J spoke of “the great importance which the ICCPR assigns to free speech in the attainment of human rights and fundamental freedoms”. The free speech right stated in the ICCPR was significantly influential in the drafting of the *Human Rights Act 2004*.



**Do any provisions of the Bill amount to an undue trespass on personal rights and liberties?—  
paragraph (3)(a) of the terms of reference**

**Report under section 38 of the *Human Rights Act 2004***

The Explanatory Statement contains a careful statement of the human rights issues arising from the Bill and addresses justifications for limitations according to the framework stated in HRA section 28. The Committee refers Members of the Assembly to this statement.

## PROPOSED GOVERNMENT AMENDMENTS

The Committee has examined proposed amendments to the Building (Loose-fill Asbestos Eradication) Legislation Amendment Bill 2015 and has no comment to make in relation to them.

## SUBORDINATE LEGISLATION

### DISALLOWABLE INSTRUMENTS—NO COMMENT

The Committee has examined the following disallowable instruments and offers no comment on them:

**Disallowable Instrument DI2015-245 being the Food (Regulated events) Declaration 2015 (No. 1) made under section 91 of the *Food Act 2001* declares the National Multicultural Festival as a regulated event for the purposes of the Act.**

**Disallowable Instrument DI2015-255 being the Government Procurement (Non-Public Employee Member) Appointment 2015 (No. 1) made under section 12 of the *Government Procurement Act 2001* appoints specified persons as part-time non-public employee members of the Government Procurement Board.**

**Disallowable Instrument DI2015-256 being the Utilities (Electricity Feed-in Code) Determination 2015 made under sections 61 and 63 of the *Utilities Act 2000* and section 46 of the *Legislation Act 2001* revokes DI2012-154 and determines the Electricity Feed-in Code.**

**Disallowable Instrument DI2015-257 being the Animal Welfare (Breeding Standard) Determination 2015 (No. 1) made under section 15B of the *Animal Welfare Act 1992* determines the standard for the breeding of cats or dogs for the purposes of the Act.**

**Disallowable Instrument DI2015-263 being the Electricity Feed-in (Renewable Energy Premium) Reporting Determination 2015 (No. 1) made under section 11B of the *Electricity Feed-in (Renewable Energy Premium) Act 2008* determines the information required from NERL Retailers and the electricity distributor to prepare a report under section 11A of the Act.**

**Disallowable Instrument DI2015-264 being the Climate Change and Greenhouse Gas Reduction (Greenhouse Gas Emissions Measurement Method) Determination 2015 made under section 11 of the *Climate Change and Greenhouse Gas Reduction Act 2010* revokes DI2013-76 and determines the method of measuring greenhouse gas emissions.**

## DISALLOWABLE INSTRUMENTS—COMMENT

The Committee has examined the following disallowable instruments and offers these comments on them:

### *ARE THESE DISALLOWABLE INSTRUMENTS?*

**Disallowable Instrument DI2015-251 being the Territory Records (Advisory Council) Appointment 2015 (No. 1) made under section 44 of the *Territory Records Act 2002* appoints a specified person as a member of the Territory Records Advisory Council, representing professional organisations interested in records management and archives.**

**Disallowable Instrument DI2015-252 being the Territory Records (Advisory Council) Appointment 2015 (No. 2) made under section 44 of the *Territory Records Act 2002* appoints a specified person as a member of the Territory Records Advisory Council, representing ACT Government agencies.**

**Disallowable Instrument DI2015-253 being the Territory Records (Advisory Council) Appointment 2015 (No. 3) made under section 44 of the *Territory Records Act 2002* appoints a specified person as a member of the Territory Records Advisory Council, representing community associations interested in historical or heritage issues.**

**Disallowable Instrument DI2015-254 being the Territory Records (Advisory Council) Appointment 2015 (No. 4) made under section 44 of the *Territory Records Act 2002* appoints a specified person as a member of the Territory Records Advisory Council, representing community associations interested in historical or heritage issues.**

The instruments mentioned above appoint four specified persons as members of the Territory Records Advisory Council. The appointments are made under section 44 of the *Territory Records Act 2002*. The first and second instruments are new appointments and the third and fourth instruments are re-appointments.

The Committee notes that it is only the appointment of non-public servants that must be effected by disallowable instrument. The Committee notes that section 227 of the *Legislation Act 2001* provides that section 229 (which requires the making of statutory appointments by disallowable instrument) only applies to appointments of persons *other than* public servants. It is for this reason that the Committee has consistently maintained that instruments of appointment should clearly state that the appointee is not a public servant, in order to make clear that, in fact, the appointment should be made by way of disallowable instrument. In its document titled *Subordinate legislation—Technical and stylistic standards—Tips/Traps* (available at [http://www.parliament.act.gov.au/in-committees/standing\\_committees/justice\\_and\\_community\\_safety\\_legislative\\_scrutiny\\_role](http://www.parliament.act.gov.au/in-committees/standing_committees/justice_and_community_safety_legislative_scrutiny_role)), the Committee stated:

Under paragraph 227(2)(a) of the *Legislation Act 2001*, an instrument of appointment is not disallowable if it appoints a public servant. As a result, it assists the Committee (and the Legislative Assembly), if the Explanatory Statement for an instrument of appointment contains a statement to the effect that “the person appointed is not a public servant”.

There is no such statement in the Explanatory Statements for the first, third and fourth instruments mentioned above. As the Committee has consistently pointed out, this is not an onerous requirement.

In the case of the second instrument, the person appointed is clearly a public servant. Indeed, the person is expressly appointed to represent ACT government agencies. That being so, the Committee assumes that the appointment could be made other than by disallowable instrument.

**The Committee draws the Legislative Assembly's attention to the first, third and fourth instruments mentioned above under principle (2) of the Committee's terms of reference, on the basis that the explanatory statement for the instrument does not meet the technical or stylistic standards expected by the Committee.**

**Further, the Committee would be grateful if the Minister could confirm that the persons appointed by the first, third and fourth instruments mentioned above are not public servants.**

## GOVERNMENT RESPONSES

The Committee has received responses from:

- The Minister for Health, dated 22 September 2015, in relation to comments made in Scrutiny Report 36 concerning the Government response to the Mental Health Bill 2015 (attached).
- The Treasurer, dated 1 October 2015 (attached), in relation to comments made in Scrutiny Report 37 concerning disallowable instruments:
  - DI2015-223—Land Rent (Total income of lessee—post-1 October 2013 leases) Determination 2015 (No. 1);
  - Disallowable Instrument DI2015-224 being the Land Rent (Total income of lessee—pre-1 October 2013 leases) Determination 2015 (No. 1);
  - Disallowable Instrument DI2015-225—Rates (Deferral) Determination 2015 (No. 1);
  - Disallowable Instrument DI2015-226—Taxation Administration (Amounts Payable—Over 60s Home Bonus Scheme) Determination 2015 (No. 3); and
  - Disallowable Instrument DI2015-230—Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2015 (No. 3).
- The Treasurer, dated 2 October 2015, in relation to comments made in Scrutiny Report 3 concerning disallowable instrument DI2013-5—Road Transport (Third-Party Insurance) Early Payment Guidelines 2013 (No. 2) (attached).

The Committee wishes to thank the Minister for Health and the Treasurer for his responses.

Steve Doszpot MLA  
Chair

20 October 2015

## OUTSTANDING RESPONSES

### **BILLS/SUBORDINATE LEGISLATION**

#### **Report 27, dated 3 February 2015**

Public Sector Bill 2014

#### **Report 36, dated 14 September 2015**

National Regulation (2015 No. 317) - Rail Safety National Law National Regulations (Fees) Variation  
Regulations 2015

National Regulation (2015 No. 318) - Rail Safety National Law National Regulations Variation  
Regulations 2015



## Simon Corbell MLA

DEPUTY CHIEF MINISTER

ATTORNEY-GENERAL

MINISTER FOR HEALTH

MINISTER FOR THE ENVIRONMENT

MINISTER FOR CAPITAL METRO

MEMBER FOR MOLONGLO

Mr Steve Doszpot MLA  
 Chair  
 Standing Committee on Justice and Community Safety  
 ACT Legislative Assembly  
 GPO Box 1020  
 CANBERRA CITY ACT 2601

Dear Mr Doszpot

I write with reference to Scrutiny Report 36 released by the Standing Committee on Justice and Community Safety (the Committee) on 15 September 2015, which provides further comment in response to the Government Response to Scrutiny Report 34, and specifically in relation to the Mental Health Bill 2015 (the Bill).

I have taken into consideration the Committee's further comments while developing minor and technical amendments to the Bill.

I also wish to advise that the second paragraph of my letter to you of 1 September 2015 indicated that the Mental Health Act will become operational on 7 March 2016. This sentence referred to the wrong date in the commencement provision for the Act. I am proposing to introduce some minor and technical amendments during the debate of the Bill which proposes a minor variation to the commencement date for the Act.

I thank the Committee for its consideration of my letter of response.

Yours sincerely

Simon Corbell MLA  
 Minister for Health

### 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](mailto:corbell@act.gov.au)  
 Twitter: @SimonCorbell Facebook: [www.facebook.com/simon.corbell](http://www.facebook.com/simon.corbell)





## Andrew Barr MLA

CHIEF MINISTER

TREASURER

MINISTER FOR ECONOMIC DEVELOPMENT

MINISTER FOR URBAN RENEWAL

MINISTER FOR TOURISM AND EVENTS

MEMBER FOR MOLONGLO

Mr Steve Doszpot MLA  
 Chair  
 Standing Committee on Justice and Community Safety  
 ACT Legislative Assembly  
 CANBERRA ACT 2601

Dear Mr Doszpot

I am writing in response to the Committee's comments in Scrutiny Report 37 of 21 September 2015, which relate to the following disallowable instruments:

- the *Land Rent (Total income of lessee—post-1 October 2013 leases) Determination 2015 (No 1)* DI2015-223;
- the *Land Rent (Total income of lessee—pre-1 October 2013 leases) Determination 2015 (No 1)* DI2015-224;
- the *Rates (Deferral) Determination 2015 (No 1)* DI2015-225;
- the *Taxation Administration (Amounts Payable—Over 60s Home Bonus Scheme) Determination 2015 (No 3)* DI2015-226; and
- the *Taxation Administration (Amounts Payable—Pensioner Duty Concession Scheme) Determination 2015 (No 3)* DI2015-230.

The Committee has identified that each of these instruments has a retrospective effect. It seeks assurance that this retrospectivity does not operate to the disadvantage of any affected person pursuant section 76 of the *Legislation Act 2001*.

I assure the Committee that the instruments do not operate to the disadvantage of any applicant by adversely affecting their rights and are non-prejudicial provisions as defined under section 76 (4) of the *Legislation Act 2001*.

I provide further detail on each instrument below.

### Land rent income thresholds

Under the Land Rent Scheme, eligibility to pay land rent at the discounted rate is subject to an income test.

#### ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601  
 Phone: (02) 6205 0011 Fax: (02) 6205 0157 Email: barr@act.gov.au  
 Facebook: Andrew.Barr.MLA Twitter: @ABarrMLA



Income for land rent purposes is generally defined as ‘income from all sources’. Under the previous instruments, this would have included a lump sum worker’s compensation payment. Receiving such a large, one-off sum could have caused a lessee to exceed the income threshold for a financial year and thus lose land rent eligibility.

The new instruments, DI2015-223 (revoking DI2014-318) and DI2015-224 (revoking DI2013-246), were made in order to exclude worker’s compensation payments from the income test for land rent eligibility. Retrospectivity ensures that any affected land rent lessees have their total income for previous years worked out with the exclusion of any worker’s compensation payments.

The retrospectivity of the instruments therefore does not disadvantage any person as they have a beneficial effect on affected land rent lessees, who may have been disqualified from the Land Rent Scheme if such payments were counted as part of their income.

### **Rates deferral**

The instrument for the Rates Deferral Scheme is reviewed every twelve months to take account of updated Australian Bureau of Statistics (ABS) data on ACT average yearly earnings. The relevant income threshold for the Rates Deferral Scheme is based on this data.

DI2015-225 revoked the *Rates Deferral Determination 2014* (No 1) DI2014-183, which was effective on 1 July 2014, and increased the relevant income threshold from \$86,750 to \$88,500, effective from 1 July 2015.

The new threshold does not operate to the disadvantage of any person or have any prejudicial effect, as the increase in the threshold reflects the increase in ACT average yearly earnings, and allows more ratepayers to access the Rates Deferral Scheme.

### **Pensioner Duty Concession Scheme and Over 60s Home Bonus Scheme**

The disallowable instruments for the Pensioner Duty Concession Scheme (PDCS) and Over 60s Home Bonus Scheme (HBS) are renewed every six months in order to update the applicable income and property value thresholds.

The previous instruments that took effect on 3 June 2015 were updated to harmonise the property ownership criteria for the PDCS and HBS, providing an exception to the property ownership requirement for a property acquired by an applicant as an executor or trustee (but not a beneficiary) under a will.

However, when this update occurred, a new restriction making applicants ineligible if they had owned a property within two years was inadvertently introduced. This condition was never intended to apply to the PDCS or HBS.

The retrospective commencement of DI2015-230 (revoking DI2015-109) and DI2015-226 (revoking DI2015-107) corrected this error and restored the eligibility conditions for the PDCS and HBS to what was originally intended.

Retrospective commencement ensured that the ACT Revenue Office could determine all PDCS or HBS applications, received on or after 3 June 2015, under less restrictive property ownership requirements.

The instruments therefore do not operate to the disadvantage of any applicant by adversely affecting their rights to access either scheme, and are non-prejudicial provisions as defined under section 76 (4) of the *Legislation Act 2001*.

I note that the Committee generally prefers that the Explanatory Statement for an instrument with retrospective effect adheres to the Committee's *Subordinate legislation – technical and stylistic stands – Tips/Traps* by expressly addressing section 76 of the Legislation Act. I offer my apologies for this contravention.

I trust that the above adequately addresses the Committee's requests.

Yours sincerely

Andrew Barr MLA  
Treasurer





## Andrew Barr MLA

CHIEF MINISTER

TREASURER

MINISTER FOR ECONOMIC DEVELOPMENT

MINISTER FOR URBAN RENEWAL

MINISTER FOR TOURISM AND EVENTS

MEMBER FOR MOLONGLO

Mr Steve Doszpot MLA  
 Chair  
 Standing Committee on Justice and Community Safety  
 ACT Legislative Assembly  
 GPO Box 1020  
 CANBERRA ACT 2601

Dear Mr Doszpot

I am writing in response to comments on disallowable instrument DI2013-5, the *Road Transport (Third-Party Insurance) Early Payment Guidelines 2013 (No. 2)*, made by the Standing Committee on Justice and Community Safety (the Committee) in its Legislative Scrutiny role in Scrutiny Report No 3 of 25 February 2013.

The Committee, in its comments in the Scrutiny Report, requested that I provide a response on two issues — the consistency of the instrument with the *Human Rights Act 2004* (HRA) and the appropriateness of clause 6.1 of the instrument for inclusion in subordinate, rather than primary legislation. The guideline which was the subject of the scrutiny comments was subsequently revoked and new guidelines issued. This guideline was subject to essentially identical comments in Scrutiny Report 10 as those raised in Scrutiny Report 3.

Given I responded to the scrutiny comments on 19 November 2013, I considered that this matter had been addressed. I have been advised that the Scrutiny Report 3 comments are still considered outstanding. In order to resolve this matter, I advise the attached response to Scrutiny Report 10 of 12 August 2013 is also applicable to the outstanding Scrutiny Report 3 of 25 February 2013.

I trust this now sufficiently addresses this outstanding response.

Yours sincerely

Andrew Barr MLA  
 Treasurer

### ACT LEGISLATIVE ASSEMBLY

London Circuit, Canberra ACT 2601 GPO Box 1020, Canberra ACT 2601

Phone: (02) 6205 0011 Fax: (02) 6205 0157 Email: barr@act.gov.au

Facebook: Andrew.Barr.MLA Twitter: @ABarrMLA



**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 11:52 AM  
**To:** Carey, Megan (Health); Orubuloye, Chris (Health)  
**Cc:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Subject:** FW: JACS request for Health (Patient Privacy) Amendment Cab Sub

Hi Megan And Chris

Are you able to give me some advice re the request? Is there a final version that we can share with JACS?

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 21 October 2015 11:48 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Richter, Matthew (Health)  
**Subject:** JACS request for Health (Patient Privacy) Amendment Cab Sub

Hi Kate,

Alex from Legislation, Policy and Programs at JACS has called me and requested the latest/final version of the Health (Patient Privacy) Amendment Bill correspondence. Do you have a trim version of the Cabinet Submission that we can share?

And just to double check - we are allowed to share that with another Directorate, right?

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 1:15 PM  
**To:** Bromhead, Richard (Health); Purser, Geoff (Health); O'Donoghue, Ross (Health); Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health); Salvaneschi, Sam (Health)  
**Subject:** FW: CABINET IN CONFIDENCE \_ Cabinet Forecast for review and update  
**Attachments:** 2015 Draft Cabinet Forward Program with descriptions.docx

**Importance:** High

Dear Ross, Richard, Matt and Geoff,

Can you please have a look at the areas that are yours and make changes as appropriate.

Needs to be cleared by Ross **Friday morning** so that we can get it to MAGS before COB on Friday.

Let me know if you have any questions.

Kate

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 21 October 2015 12:47 PM  
**To:** Cohen, Sarit (Health); Dorrell, Susanna (Health); Pini, Sallyanne (Health); Rucinski, Gul (Health); Sahota, Navjeet (Health); Vosen, Kathleen (Health); Zerial, Annette (Health)  
**Cc:** DDGCorporate  
**Subject:** FW: CABINET IN CONFIDENCE \_ Cabinet Forecast for review and update

Hi All,  
 is there any additions or updates as related to your line areas? Please get back to me- Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 21 October 2015 12:41 PM  
**To:** McNeill, Laura (Health); Hogan, Sonia (Health); Redmond, Joanna (Health); Grayland, Geraldine (Health);

DDGCorporate; ACT Health, DDG Health Infrastructure & Planning; DDGClinical  
**Cc:** Hallam, Elizabeth (Health); Carey, Megan (Health); Andersen, Jackie (Health)  
**Subject:** CABINET IN CONFIDENCE \_ Cabinet Forecast for review and update  
**Importance:** High

Hello all,

Click [here](#) for the Cabinet Forecast for your review and information.

Please advise MAGS of any additions or updates as related to your line areas.

Feel free to update the forecast in red and advise MAGS when these updates are made.

Updated forecasts are required by **COB Friday 23 October 2015**.

cheers

Chris Orubuloye | A/g Cabinet and Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*







































**Marion-Landais, Stephanie (Health)**

---

**From:** Tan, Titus (Health)  
**Sent:** Wednesday, 21 October 2015 4:45 PM  
**To:** O'Donoghue, Ross (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** 50m Exclusion Zone from 1 Moore Street  
**Attachments:** 20151021154100986.pdf

Hi Ross, as requested, the estimated 50m exclusion zone from both entrances of 1 Moore St is attached.

Regards,  
Titus

































**Marion-Landais, Stephanie (Health)**

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:39 PM  
**To:** Andersen, Jackie (Health); Hogan, Sonia (Health)  
**Cc:** Vosen, Kathleen (Health); Pavic, Lauren (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Subject:** Patient Privacy Bill  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

Jackie, I attach a set of answers to the Minister's questions and a map showing the effect of a 50 metre exclusion zone from the two entrances to 1 Moore St. regards

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
T (02) 620 50568 | M 0434 073 390



















**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 22 October 2015 12:52 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: JACS request for Health (Patient Privacy) Amendment Cab Sub

I have put in a call to Chris and followed up with another email to MAGS – i have still not heard back

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Thursday, 22 October 2015 9:25 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: JACS request for Health (Patient Privacy) Amendment Cab Sub

Yes, the urgency has diminished but they would still like to see the Cab Sub and the dot points too just so we're all on the same page.

**Stephanie Marion-Landais, MPH** | Senior Policy Officer  
**Phone (02) 6205 1875**  
**Chronic and Primary Health Policy Unit | ACT Health**  
*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 22 October 2015 8:23 AM  
**To:** Marion-Landais, Stephanie (Health)  
**Cc:** Richter, Matthew (Health)  
**Subject:** RE: JACS request for Health (Patient Privacy) Amendment Cab Sub

I haven't heard back from MAGs yet – Is this still required? Or did JACS request yesterday afternoon indicate they had a copy

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Marion-Landais, Stephanie (Health)  
**Sent:** Wednesday, 21 October 2015 11:48 AM  
**To:** Vosen, Kathleen (Health)

**Cc:** Richter, Matthew (Health)

**Subject:** JACS request for Health (Patient Privacy) Amendment Cab Sub

Hi Kate,

Alex from Legislation, Policy and Programs at JACS has called me and requested the latest/final version of the Health (Patient Privacy) Amendment Bill correspondence. Do you have a trim version of the Cabinet Submission that we can share?

And just to double check - we are allowed to share that with another Directorate, right?

Kind regards,

Stephanie

**Stephanie** Marion-Landais, MPH | Senior Policy Officer

**Phone (02) 6205 1875** | FAX (02) 6205 0866

**Chronic and Primary Health Policy Unit** | Policy & Government Relations Branch | **ACT Health**

LEVEL 2, 11 MOORE ST | GPO BOX 825 CANBERRA CITY ACT 2601 | [www.health.act.gov.au](http://www.health.act.gov.au)

Email: [stephanie.marion-landais@act.gov.au](mailto:stephanie.marion-landais@act.gov.au)

*ACT Health work days: Tuesdays, Wednesdays and Thursdays*

## Marion-Landais, Stephanie (Health)

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 3:24 PM  
**To:** Vosen, Kathleen (Health)  
**Subject:** RE: Patient Prvacy Ammendment Bill- exclusion zones

Tomorrow morning earlyish. Best to knock it off tonight if we can.

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 3:17 PM  
**To:** O'Donoghue, Ross (Health)  
**Subject:** RE: Patient Prvacy Ammendment Bill- exclusion zones

I will see what i can do.

Let me know what our cut off is

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 21 October 2015 2:57 PM  
**To:** Andersen, Jackie (Health); Ministerial and Government Services - Health  
**Cc:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Subject:** Patient Prvacy Ammendment Bill- exclusion zones

Hi Jackie- as discussed with the Ministers Office these are the urgent dot points that need to be addressed urgently this afternoon.

- Map of 1 Moore St and where the 50 m exclusion zone would be
- A reason why this is 50m ( provide proper justification)
- How will this be enforced? Who will enforce?
- Penalties- have JACS been consulted/are they comfortable with this?
- Do we need to consult with the Commonwealth?

Ta Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.



## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 3:25 PM  
**To:** O'Donoghue, Ross (Health)  
**Subject:** Re: Patient Prvacy Ammendment Bill- exclusion zones  
**Attachments:** image001.jpg

I can call in 20

Sent from my iPhone

On 21 Oct 2015, at 3:24 pm, O'Donoghue, Ross (Health) <[Ross.O'Donoghue@act.gov.au](mailto:Ross.O'Donoghue@act.gov.au)> wrote:

Tomorrow morning earlyish. Best to knock it off tonight if we can.

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Wednesday, 21 October 2015 3:17 PM  
**To:** O'Donoghue, Ross (Health)  
**Subject:** RE: Patient Prvacy Ammendment Bill- exclusion zones

I will see what i can do.

Let me know what our cut off is

---

**From:** Hogan, Sonia (Health)  
**Sent:** Wednesday, 21 October 2015 2:57 PM  
**To:** Andersen, Jackie (Health); Ministerial and Government Services - Health  
**Cc:** Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Subject:** Patient Prvacy Ammendment Bill- exclusion zones

Hi Jackie- as discussed with the Ministers Office these are the urgent dot points that need to be addressed urgently this afternoon.

- Map of 1 Moore St and where the 50 m exclusion zone would be
- A reason why this is 50m ( provide proper justification)
- How will this be enforced? Who will enforce?
- Penalties- have JACS been consulted/are they comfortable with this?
- Do we need to consult with the Commonwealth?

Ta Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Wednesday, 21 October 2015 4:17 PM  
**To:** O'Donoghue, Ross (Health)  
**Cc:** Pavic, Lauren (Health)  
**Subject:** patient privacy cab sub  
**Attachments:** Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015.DOCX; Attachment C to brief -CAB15-581 - Submission-Health (patient privacy) amendment bill 2015.DOC; Attachment A to Cabinet Submission - health (patient privacy) amendment bill - triple bottom line assessment.DOCX

Hi Ross

Here is the document you were after

Lauren. It is GBC15/303 if you want the other documents - I've only give you the submission.

 Megan

















**Marion-Landais, Stephanie (Health)**

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:44 PM  
**To:** Martin, Victor  
**Cc:** Field, Julie  
**Subject:** FW: Patient Privacy Bill  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

FYI

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:39 PM  
**To:** Andersen, Jackie (Health); Hogan, Sonia (Health)  
**Cc:** Vosen, Kathleen (Health); Pavic, Lauren (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Subject:** Patient Privacy Bill

Jackie, I attach a set of answers to the Minister's questions and a map showing the effect of a 50 metre exclusion zone from the two entrances to 1 Moore St. regards

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
T (02) 620 50568 | M 0434 073 390

**Marion-Landais, Stephanie (Health)**

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:39 PM  
**To:** Andersen, Jackie (Health); Hogan, Sonia (Health)  
**Cc:** Vosen, Kathleen (Health); Pavic, Lauren (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Subject:** Patient Privacy Bill  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

Jackie, I attach a set of answers to the Minister's questions and a map showing the effect of a 50 metre exclusion zone from the two entrances to 1 Moore St. regards

**Ross O'Donoghue** | **Executive Director** | Policy and Government Relations | ACT Health  
T (02) 620 50568 | M 0434 073 390

**Marion-Landais, Stephanie (Health)**

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Thursday, 22 October 2015 1:40 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health)  
**Subject:** FW: Patient Privacy Bill  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

Matt and Stephanie, Nicole was concerned about the reference to ACT Health staff issuing infringement notices. I have softened the language.

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
 T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Thursday, 22 October 2015 1:38 PM  
**To:** Andersen, Jackie (Health)  
**Subject:** FW: Patient Privacy Bill

Revised version attached.

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
 T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:44 PM  
**To:** Martin, Victor  
**Cc:** Field, Julie  
**Subject:** FW: Patient Privacy Bill

FYI

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
 T (02) 620 50568 | M 0434 073 390

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Wednesday, 21 October 2015 5:39 PM  
**To:** Andersen, Jackie (Health); Hogan, Sonia (Health)  
**Cc:** Vosen, Kathleen (Health); Pavic, Lauren (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Subject:** Patient Privacy Bill

Jackie, I attach a set of answers to the Minister's questions and a map showing the effect of a 50 metre exclusion zone from the two entrances to 1 Moore St. regards

**Ross O'Donoghue | Executive Director | Policy and Government Relations | ACT Health**  
 T (02) 620 50568 | M 0434 073 390





**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 22 October 2015 1:57 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** Cabinet in Confidence  
**Attachments:** Attachment A to Brief Health Patient Privacy Amendment Bill.PDF; Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015.DOCX; Attachment D to brief - the bill - Health (Patient Privacy) Amendment Act 2015.PDF; Attachment C to brief -CAB15-581 -Submission-Health (patient privacy) amendment bill 2015.DOC; Attachment A to Cabinet Submission - health (patient privacy) amendment bill - triple bottom line assessment.DOCX; Attachment B to Brief - Letter from Corbell to Barr re Govt Position.DOC; Brief - CAB15-581 Health (Patient Privacy) Bill 2015.DOC

**Importance:** High  
**Sensitivity:** Confidential

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged



-----< HP Records Manager Record Information >-----

Record Number : COR15/12996  
Title : Attachment A to Brief Health Patient Privacy Amendment Bill

-----< HP Records Manager Record Information >-----

Record Number : COR15/12994  
Title : Attachment B to Cabinet Submission - Communication strategy - government position health (patient privacy) amendment bill 2015

-----< HP Records Manager Record Information >-----



Record Number : COR15/12978  
Title : Attachment D to brief - the bill - Health (Patient Privacy) Amendment Act 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/12977  
Title : Attachment C to brief -CAB15-581 -Submission-Health (patient privacy) amendment bill 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/12976  
Title : Attachment A to Cabinet Submission - health (patient privacy) amendment bill - triple bottom line assessment



-----< HP Records Manager Record Information >-----

Record Number : COR15/12975  
Title : Attachment B to Brief - Letter from Corbell to Barr re Govt Position

-----< HP Records Manager Record Information >-----

Record Number : COR15/12974  
Title : Brief - CAB15-581 Health (Patient Privacy) Bill 2015









## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 22 October 2015 2:40 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

FYI

Regards,

### Kathleen Vosen

Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 22 October 2015 2:03 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health)  
**Subject:** FW: GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015

FYI. cleared

---

**From:** Andersen, Jackie (Health)  
**Sent:** Thursday, 22 October 2015 2:02 PM  
**To:** Dal Molin, Vanessa (Health)  
**Cc:** Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Subject:** GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015

i Vanessa

Cleared information (by D-G) is attached for the office.

Thanks

**Jackie Andersen** | Senior Manager  
 Ministerial and Government Services  
 ACT Health | ACT Government  
 Phone: 6205 0829 | Mobile: 0466 169 984  
 Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity



## Marion-Landais, Stephanie (Health)

---

**From:** O'Donoghue, Ross (Health)  
**Sent:** Tuesday, 5 January 2016 4:11 PM  
**To:** Marion-Landais, Stephanie (Health)  
**Subject:** FW: GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** Exclusion zone.pdf; Health (Patient Privacy) Amendment Bill - Dot Points for the Minister - 21 Oct 2015.doc

**Ross O'Donoghue** | Executive Director | Policy and Government Relations | ACT Health  
 T (02) 620 50568 | M 0434 073 390

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 22 October 2015 2:40 PM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015

FYI

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Carey, Megan (Health)  
**Sent:** Thursday, 22 October 2015 2:03 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Orubuloye, Chris (Health)  
**Subject:** FW: GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015

FYI. cleared

---

**From:** Andersen, Jackie (Health)  
**Sent:** Thursday, 22 October 2015 2:02 PM  
**To:** Dal Molin, Vanessa (Health)  
**Cc:** Ministerial and Government Services - Health; Orubuloye, Chris (Health); Carey, Megan (Health); Hogan, Sonia (Health); O'Donoghue, Ross (Health)  
**Subject:** GBC15/303 - Dot points regarding Health (Patient Privacy) Amendment Bill 2015

Hi Vanessa

Cleared information (by D-G) is attached for the office.

Thanks

**Jackie Andersen** | Senior Manager  
 Ministerial and Government Services

ACT Health | ACT Government  
Phone: 6205 0829 | Mobile: 0466 169 984  
Email: [jackie.andersen@act.gov.au](mailto:jackie.andersen@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity





**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Friday, 23 October 2015 3:27 PM  
**To:** Richter, Matthew (Health); O'Donoughue, Ross (Health); Hogan, Sonia (Health)  
**Subject:** FW: URGENT - RE: c-i-c Health (patient privacy) Bill Cabinet package

**Sensitivity:** Confidential

FYI

---

**From:** Purser, Geoff (Health)  
**Sent:** Friday, 23 October 2015 3:04 PM  
**To:** Vosen, Kathleen (Health)  
**Subject:** RE: URGENT - RE: c-i-c Health (patient privacy) Bill Cabinet package  
**Sensitivity:** Confidential

Hi Kate,

I will call PCO and get things moving. It is not a complicated amendment so I do not think it will take long. We should have something by Tuesday, although that may depend on other work priorities with PCO. Leave it with me I am sure I can get it done.

Geoff

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Friday 23 October 2015 14:56  
**To:** Purser, Geoff (Health); Richter, Matthew (Health)  
**Cc:** O'Donoughue, Ross (Health)  
**Subject:** FW: URGENT - RE: c-i-c Health (patient privacy) Bill Cabinet package

Hi Geoff

I understand there is small chance that you are already working on these. I know Ross had a quick word to you earlier in the week.

If so, Where are you up to? And if not, can you please call PCO urgently.

I can assist if you need to probably on Monday.

Please let us know asap.

---

**From:** Carey, Megan (Health)  
**Sent:** Friday, 23 October 2015 2:52 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Richter, Matthew (Health); Purser, Geoff (Health); Orubuloye, Chris (Health); O'Donoughue, Ross (Health); Pavic, Lauren (Health)  
**Subject:** URGENT - RE: c-i-c Health (patient privacy) Bill Cabinet package  
**Sensitivity:** Confidential

Aghh! Kathleen, I'm sorry I've only just read this now.

We need this by Tuesday at the latest. Perhaps it's done by now?

It doesn't need to go to Cabinet.

It needs to be signed by the minister and circulated to members by noon the day before its proposed.

This Bill is scheduled for Thursday 29 October 2015.

We need to find out also if the proposed amendments are considered minor and technical (which they appear to me) PCO will advise you on that. That means that we don't need to take them to the Assembly Scrutiny Committee which will save us time. I haven't factored that into the Tuesday date.

Thanks  
Megan

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Monday, 19 October 2015 4:56 PM  
**To:** Carey, Megan (Health); Orubuloye, Chris (Health)  
**Cc:** Richter, Matthew (Health); Purser, Geoff (Health)  
**Subject:** FW: c-i-c Health (patient privacy) Bill Cabinet package  
**Importance:** High  
**Sensitivity:** Confidential

Dear Chris and Megan

Ross mentioned that we may need to supply a draft amendment to the Bill if the government position, as recommended, is accepted.

Are you able to confirm that this is the case, and if so – when we would need to have it drafted by?

Regards,

**Kathleen Vosen**  
 Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 14 October 2015 11:02 AM  
**To:** Dorrell, Susanna (Health)  
**Cc:** Marion-Landais, Stephanie (Health); Vosen, Kathleen (Health)  
**Subject:** c-i-c Health (patient privacy) Bill Cabinet package  
**Importance:** High  
**Sensitivity:** Confidential

Cabinet-in-Confidence

Here is the final package from PGR - Ross' feedback and amendments have been incorp'd.

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

## Cabinet-In-Confidence

TRIM No.: GBC15/264

Date Rec'd Minister's Office .../.../...

**To:** Minister for Health**From:** Ms Nicole Feely, Director-General, ACT Health**Subject:** Health (Patient Privacy) Amendment Bill**Critical Date:** 26 October 2015**Critical Reason:** Cabinet is scheduled to consider a government position on the Health (Patient Privacy) Amendment Bill 2015 on 26 October 2015.

- DG Health .../.../...
- DDG S&C .../.../...

**Purpose**

1. To seek agreement to progress a Cabinet Submission in relation to a proposed Government Position on the Health (Patient Privacy) Amendment Bill 2015 (the Bill).

**Background**

2. In June 2015, you were briefed regarding the development of the Exposure Draft of the Bill (Attachment A).
3. The Bill involves the introduction of exclusion zones around medical facilities that provide termination of pregnancy services in the ACT.
4. The Bill responds to community concerns over potentially intimidating and harassing conduct that has occurred outside of the approved health facility that provides termination of pregnancy services at 1 Moore Street. The Bill also ensures that any future escalation of protest activities is contained.
5. The Bill is designed to:
  - a. prevent behaviours which may act to increase emotional distress or prevent women from accessing legal and medically recognised health procedures;
  - b. create a 'protest free zone' which means that all forms of protest will be prohibited; and
  - c. ensure that both staff and patients may enter and exit the medical facility without prejudice.

**Government Commitment**

6. The provision of termination of pregnancy services in the ACT is protected under the *Health Act 1993*.
7. The medical facility approved to provide termination of pregnancy services in the ACT is Dr Marie Stopes International, located at level 1, 1 Moore Street Canberra City.

Cabinet-In-Confidence

- 17. ACT Health has received eight letters addressed to MLAs in opposition to exclusion zones. Dissenting feedback underscored the importance of preserving the spirit of freedom of peaceful assembly, freedom of association and freedom of expression as outlined in the *Human Rights Act 2004*.
- 18. The ACT Human Rights Commission was consulted and indicated that concerns about this issue have been regularly raised with the Health Services Commissioner.

**Benefits/Sensitivities**

- 19. The issue of termination of pregnancy is a highly sensitive topic. As access to pregnancy termination is legal in the ACT and it is regarded as a health care, rather than a criminal matter, the Bill will benefit women in the ACT who require access to these particular health services to undergo such procedures.
- 20. All Australians have the right to access health care services whenever required. Therefore, any and all barriers to the accessibility of health care services should be reduced, or if at all possible removed. Under this situation, however, those rights must be weighed against the rights of all ACT residents under the *Human Rights Act 2004* to freedom of speech and the right to protest.

**Media Implications**

- 21. Media attention is expected when the Bill is being debated.

**Recommendations**

That you:

- 1. Note the information contained in this Brief; (2) **Noted / Please Discuss**
- 2. Sign the letter to the Chief Minister (Attachment B); and. (Agreed) **Agreed / Not Agreed / Please Discuss**
- 3. Agree and sign the attached Cabinet Submission (Attachment C) for Cabinet Consideration on 26 October 2015. (Agreed) **Agreed / Not Agreed / Please Discuss**

Simon Corbell MLA.....

23/10/15

Minister's Comments



## Simon Corbell MLA

DEPUTY CHIEF MINISTER

ATTORNEY-GENERAL  
MINISTER FOR HEALTH  
MINISTER FOR THE ENVIRONMENT  
MINISTER FOR CAPITAL METRO

MEMBER FOR MOLONGLO

Mr Andrew Barr MLA  
Chief Minister  
GPO Box 1020  
CANBERRA ACT 2601

Dear Chief Minister

I am writing to provide you with a proposed Government Position on the Health (Patient Privacy) Amendment Bill (Bill). I understand, Mr Rattenbury will be introducing his Bill for debate during next week's sitting period.

The Bill is designed to avert behaviours which may act to increase emotional distress or prevent women from accessing legal and medically recognised health procedures. It also ensures that both staff and patients may enter and exit the medical facility without prejudice. In its application, the Bill limits the ability for protesters to influence the conscience of people exercising a right to access a legal health service in the ACT. However, the Bill does not limit the ability to protest in other arena, such as the ACT Legislative Assembly or other public areas.

In developing the proposed Government Position, ACT Health has consulted with Territory and Municipal Services, Access Canberra, the Environment and Planning Directorate and the Justice and Community Safety Directorate, including the Australian Federal Police and the Legislative, Policy and Programs Team, about the practicalities of enforcing this Bill. Importantly, the Bill was also assessed against the *Human Rights Act 2004*, taking into consideration the right to peaceful assembly as well as the rights of an individual to access healthcare in a safe and respectful way. Based on these discussions and the community feedback received via letters and emails, ACT Health has decided to support the Bill.

In light of the international evidence, the outcome of the human rights assessment and the minimal cost implications, I propose that you support the attached Cabinet Submission.

Yours sincerely

Simon Corbell MLA  
Minister for Health

22.10.15

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  
Twitter: @SimonCorbell Facebook: www.facebook.com/simon.corbell

































**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Monday, 26 October 2015 3:50 PM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Marion-Landais, Stephanie (Health); Purser, Geoff (Health)  
**Subject:** H(pp)AB 2015 Bill Debate Package  
**Attachments:** H(PP)AB 2015 Bill Information v1.doc; H(PP)AB 2015 Government Amendments Speech v1.doc; H(PP)AB 2015 Debate Speech v1.doc; J2015-636-Health Patientprivacy Ambill2015-AssAm-G-D02.pdf; H(PP)AB 2015\_supp ES government amendments H(PP) A Bill 2015.doc

**Importance:** High

**Matthew Richter** | Senior Manager

**Phone (02) 6207 9143** | Fax (02) 6205 0866

**Policy and Government Relations** | **ACT Health** | **ACT Government**

Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity

















Australian Capital Territory  
Legislative Assembly

---

**Health (Patient Privacy) Amendment Bill 2015**

---

Amendments to be moved by the Minister for Health

---

**1**  
**Clause 2**  
**Page 2, line 4—**

*omit*  
on the day  
*substitute*  
6 months

---

**2**  
**Clause 5**  
**Proposed new section 86 (2) (aa)**  
**Page 4, line 5—**

*insert*  
(aa) not less than 50m at any point from the approved medical facility; and

---

2015

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**HEALTH (PATIENT PRIVACY) AMENDMENT BILL 2015**

**GOVERNMENT AMENDMENTS**

**SUPPLEMENTARY EXPLANATORY STATEMENT**

Presented by  
Simon Corbell MLA  
Minister for Health

## SUPPLEMENTARY EXPLANATORY STATEMENT FOR GOVERNMENT AMENDMENTS

These government amendments are minor and technical in nature (refer to Assembly Standing Order 182A).

### OVERVIEW

The government amendments to the Health (Patient Privacy) Bill 2015 are to provide a later commencement date for the Bill at Clause 2 and to clarify the minimum distance allowed for a declared protected area under Clause 5 of the Bill.

### DETAIL

#### **Amendment 1**

##### **Clause 2**

##### **Page 2, line 4**

This amendment omits from the commencement provision the words 'on the day' and substitutes the period of '6 months'. This is to make clear that the Bill will now commence 6 months after its notification day.

#### **Amendment 2**

##### **Clause 5**

##### **Proposed new section 86 (2) (aa)**

##### **Page 4, line 6**

This amendment inserts a new section 86 (2) (aa) in the Bill to clarify that the minimum distance that can be declared by the Minister for a protected area around an approved medical facility is not less than 50 metres.

**Marion-Landais, Stephanie (Health)**

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Monday, 26 October 2015 4:47 PM  
**To:** Richter, Matthew (Health)  
**Cc:** Marion-Landais, Stephanie (Health)  
**Subject:** Health (Patient Privacy) Amendment latest documents  
**Attachments:** Amendment - Health (Patient Privacy) Amendment Bill 2015.PDF; H(PP)AB 2015\_supp ES government amendments H(PP)A Bill 2015.DOC; H(PP)AB 2015 Government Amendments Speech v1.DOC; H(PP)AB 2015 Bill Information v1.DOC; H(PP)AB 2015 Debate Speech v1.DOC

These are the ones that went up

-----< HP Records Manager Record Information >-----

Record Number : COR15/13573  
 Title : Amendment - Health (Patient Privacy) Amendment Bill 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/13572  
 Title : H(PP)AB 2015\_supp ES government amendments H(PP)A Bill 2015

-----< HP Records Manager Record Information >-----

Record Number : COR15/13571  
 Title : H(PP)AB 2015 Government Amendments Speech v1

-----< HP Records Manager Record Information >-----

Record Number : COR15/13569  
 Title : H(PP)AB 2015 Bill Information v1

-----< HP Records Manager Record Information >-----

Record Number : COR15/13567  
 Title : H(PP)AB 2015 Debate Speech v1

## Marion-Landais, Stephanie (Health)

---

**From:** Orubuloye, Chris (Health) on behalf of Ministerial and Government Services - Health  
**Sent:** Monday, 26 October 2015 10:22 AM  
**To:** Hogan, Sonia (Health); DDGCorporate  
**Cc:** Dorrell, Susanna (Health); Carey, Megan (Health); Pearson, Karen (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill - debate pack

**Importance:** High

Hi Sonia,

Can you please ensure that the Clause by Clause notes covers the proposed Government Amendment to the Bill.

Cheers

Chris

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Monday, 26 October 2015 10:09 AM  
**To:** Hogan, Sonia (Health); DDGCorporate  
**Cc:** Carey, Megan (Health); Pearson, Karen (Health); Andersen, Jackie (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill - debate pack  
**Importance:** High

Hi Sonia,

We are preparing a debate pack for the Minister for the Health (Patient Privacy) Amendment Bill.

For this we require the following:

- 2 Speeches –
  - the first speech for the Minister for Health - to last 15 minutes
  - Other Government member's speech - to last 10 Minutes
- Clause by Clause speaking notes on the Health (Patient Privacy) Amendment Bill
- Potential Questions and Answers on the Health (Patient Privacy) Amendment Bill
- the Proposed Government Amendment to the Bill

Are we able to have this back to MAGS by **2pm today please.**

Thank you

Chris Orubuloye | Assembly Liaison Officer  
 Ministerial and Government Services  
 Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
 Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Monday, 26 October 2015 10:28 AM  
**To:** Richter, Matthew (Health); Purser, Geoff (Health)  
**Cc:** O'Donoghue, Ross (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill - debate pack

**Importance:** High

Hi matt and Geoff

Coming around to see you

Regards,

**Kathleen Vosen**

Executive Officer  
 Policy and Government Relations Branch  
 Strategy and Corporate  
 ACT Health Directorate  
 ph: 6205 0832  
 mobile: 0466443276

---

**From:** Hogan, Sonia (Health)  
**Sent:** Monday, 26 October 2015 10:25 AM  
**To:** Vosen, Kathleen (Health)  
**Subject:** FW: Health (Patient Privacy) Amendment Bill - debate pack  
**Importance:** High

Hi Kathleen- please can you see urgent- Sonia

*Regards,*  
**Sonia Hogan**

A/g Executive Officer | Office of the Deputy Director-General Strategy & Corporate  
 Telephone: (02) 620 76596 | | Email: [sonia.hogan@act.gov.au](mailto:sonia.hogan@act.gov.au)

*Please consider the environment before printing this email. If printing is necessary, print double-sided and black and white.*



**Care ▲ Excellence ▲ Collaboration ▲ Integrity**

This message, and any attachments to it, contains information that is confidential. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Monday, 26 October 2015 10:22 AM  
**To:** Hogan, Sonia (Health); DDGCorporate  
**Cc:** Dorrell, Susanna (Health); Carey, Megan (Health); Pearson, Karen (Health)



**Subject:** FW: Health (Patient Privacy) Amendment Bill - debate pack  
**Importance:** High

Hi Sonia,

Can you please ensure that the Clause by Clause notes covers the proposed Government Amendment to the Bill.

Cheers

Chris

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Monday, 26 October 2015 10:09 AM  
**To:** Hogan, Sonia (Health); DDGCorporate  
**Cc:** Carey, Megan (Health); Pearson, Karen (Health); Andersen, Jackie (Health)  
**Subject:** Health (Patient Privacy) Amendment Bill - debate pack  
**Importance:** High

Hi Sonia,

We are preparing a debate pack for the Minister for the Health (Patient Privacy) Amendment Bill.

For this we require the following:

- 2 Speeches –
  - the first speech for the Minister for Health - to last 15 minutes
  - Other Government member's speech - to last 10 Minutes
- Clause by Clause speaking notes on the Health (Patient Privacy) Amendment Bill
- Potential Questions and Answers on the Health (Patient Privacy) Amendment Bill
- the Proposed Government Amendment to the Bill

Are we able to have this back to MAGS by **2pm today please**.

Thank you

Chris Orubuloye | Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Monday, 26 October 2015 11:29 AM  
**To:** Vosen, Kathleen (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoughue, Ross (Health); Purser, Geoff (Health); Dorrell, Susanna (Health); Pearson, Karen (Health); Orubuloye, Chris (Health); DDGCorporate  
**Subject:** RE: health (Patient Privacy) Amendment Bill

Perfect.

Thanks very much  
Megan

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Monday, 26 October 2015 11:22 AM  
**To:** Carey, Megan (Health); Pearson, Karen (Health); Orubuloye, Chris (Health)  
**Cc:** Hogan, Sonia (Health); O'Donoughue, Ross (Health); Purser, Geoff (Health); Dorrell, Susanna (Health)  
**Subject:** health (Patient Privacy) Amendment Bill  
**Importance:** High

Dear Megan and Karen

As per our discussion, we will prepare:

- One speech for Minister Corbell in support of the Bill, with clause by clause speaking points for the proposed amendments
- Some Q&A in relation to the Bill and the proposed amendments.
- Draft amendments – being prepared by PCO – these will be completed tomorrow.

Please let us know if you need anything else

Regards,

**Kathleen Vosen**  
Executive Officer  
Policy and Government Relations Branch  
Strategy and Corporate  
ACT Health Directorate  
ph: 6205 0832  
mobile: 0466443276

**Marion-Landais, Stephanie (Health)**

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 28 October 2015 11:41 AM  
**To:** Hogan, Sonia (Health)  
**Cc:** Vosen, Kathleen (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health); O'Donoghue, Ross (Health)  
**Subject:** Dot points for Minister - Exclusion Zones Implementation  
**Attachments:** H(PP)AB Bill 2015\_Dot points Implementation period.doc

**Importance:** High

Sonia

Ross asked me to send straight up some dot points for the Minister that have been requested explaining why we have proposed a six month implementation period.

Points attached.

Regards  
Matt

**Matthew Richter** | Senior Manager  
**Phone (02) 6207 9143** | Fax (02) 6205 0866  
**Policy and Government Relations | ACT Health | ACT Government**  
Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
*Care ▲ Excellence ▲ Collaboration ▲ Integrity*





**Marion-Landais, Stephanie (Health)**

---

**From:** Carey, Megan (Health)  
**Sent:** Wednesday, 28 October 2015 2:42 PM  
**To:** Richter, Matthew (Health); Vosen, Kathleen (Health); O'Donoghue, Ross (Health)  
**Subject:** extemley URGENT: Health (Patient Privacy) Amendment Bill 2015

**Importance:** High

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health  
**Sent:** Wednesday, 28 October 2015 2:38 PM  
**To:** Hogan, Sonia (Health); DDGCorporate  
**Cc:** Carey, Megan (Health); Andersen, Jackie (Health); Pearson, Karen (Health)  
**Subject:** FW: URGENT: Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Hi Sonia,

The Minister's Office has requested an urgent amendment to the Government Amendments for the Health (Patient Privacy) Amendment Bill. The amendment to Clause 2, Page 2, line 4 – should now read 'no later than six months'.

Could you please arrange for relevant S&C staff (Matt Richter or Kathleen Vosen )to liaise with PCO urgently for the government amendment to be updated. The supplementary Explanatory Statement will also need to be updated.

Can this be done ASAP please so that I can provide feedback and updated documents to the Minister's office by **4:30pm today**.

Thank you

Chris Orubuloye | Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
mail: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

*Care Excellence Collaboration Integrity*

## Marion-Landais, Stephanie (Health)

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 28 October 2015 4:13 PM  
**To:** Dal Molin, Vanessa (Health); Andersen, Jackie (Health)  
**Cc:** Orubuloye, Chris (Health); Hogan, Sonia (Health); O'Donoughue, Ross (Health); Vosen, Kathleen (Health)  
**Subject:** FW: Revised Assembly amendment - Health (Patient Privacy) Amendment Bill 2015  
**Attachments:** J2015-636-Health Patientprivacy Ambill2015-AssAm-G-D04 Final.pdf; H(PP)AB 2015 Government Amendments Speech revised amendments.doc; H(PP)AB 2015\_supp ES government amendments H(PP)A Bill 2015 Revised amendments.doc

**Importance:** High

Jackie - Final package of Revised Government Amendments attached. The amendments, the speech and the supp ES.

Vanessa, please hold until Jackie gives you the go ahead for the Minister to sign.

Regards  
 Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
**Policy and Government Relations | ACT Health | ACT Government**  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Wednesday, 28 October 2015 4:09 PM  
**To:** Richter, Matthew (Health); O'Donoughue, Ross (Health)  
**Cc:** Orubuloye, Chris (Health); Andersen, Jackie (Health); Hogan, Sonia (Health)  
**Subject:** FW: Revised Assembly amendment - Health (Patient Privacy) Amendment Bill 2015

Hi there,  
 I've now received a copy of the amendments to Health (Patient Privacy) Amendment Bill. Can you advise whether you are comfortable for me to now provide these to Minister for signature and deliver to the Clerk's Office. The Clerk is keen to receive this urgently so that they can prepare appropriate procedures for Minister to use tomorrow.

Thanks,  
 Vanessa

**Vanessa Dal Molin**  
 Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
 Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity




---

**From:** Darville, Pam  
**Sent:** Wednesday, 28 October 2015 4:03 PM  
**To:** Dal Molin, Vanessa (Health)  
**Cc:** Junakovic, Georgia  
**Subject:** FW: Revised Assembly amendment - Health (Patient Privacy) Amendment Bill 2015

Cheers Pam

**Pam Darville | Manager - Government Business Coordination**

Phone: +61 2 6205 0543 | Mobile: 0418 881 990 | Email: [pam.darville@act.gov.au](mailto:pam.darville@act.gov.au)

Chief Minister, Treasury and Economic Development Directorate | ACT Government

Level 4 Canberra Nara Centre | London Circuit CANBERRA CITY | GPO Box 158 Canberra ACT 2601 | [www.act.gov.au](http://www.act.gov.au)

---

**From:** Moxon, Ann

**Sent:** Wednesday, 28 October 2015 3:46 PM

**To:** Richter, Matthew (Health)

**Cc:** Maselos, Christina; Purser, Geoff (Health)

**Subject:** Revised Assembly amendment - Health (Patient Privacy) Amendment Bill 2015

Dear Matthew,

Please find attached the revised Assembly amendment to the *Health (Patient Privacy) Amendment Bill 2015*, version 4.

Note,

1. You are required to provide the Clerk's office with a **signed copy by 12 noon** on the day prior to the day of debate. If you have not already made arrangements for the late lodgement of this version of the Assembly amendment, please contact the Clerk Assistant on 6205 0557.
2. You are also required to provide a stock of hard copies to the Assembly for the debate. Please contact the Manager of Government Business Coordination on 6205 0543 for further information on this process.

Regards,

Ann

---

**Ann Moxon** | Senior Manager, Legislative Publishing Section

(02) 6205 3782

**ACT Parliamentary Counsel's Office** | Justice and Community Safety | ACT Government

Level 3, 12 Moore Street, Canberra City | [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**a.ct.legislation@egister**



**Australian Capital Territory  
Legislative Assembly**

---

**Health (Patient Privacy) Amendment Bill 2015**

---

Amendments to be moved by the Minister for Health

---

**1**  
**Clause 2**  
**Page 2, line 3—**

*omit clause 2, substitute*

**2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

---

**2**  
**Clause 5**  
**Proposed new section 86 (2) (aa)**  
**Page 4, line 5—**

*insert*

(aa) not less than 50m at any point from the approved medical facility; and

---

## Marion-Landais, Stephanie (Health)

---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 28 October 2015 3:42 PM  
**To:** Dal Molin, Vanessa (Health); Orubuloye, Chris (Health)  
**Cc:** Pearson, Karen (Health); Andersen, Jackie (Health); O'Donoghue, Ross (Health); DDGCorporate; Hogan, Sonia (Health)  
**Subject:** RE: URGENT: Health (Patient Privacy) Amendment Bill 2015

Vanessa

Thanks for confirming. I'm finalising drafting with the editors as we speak.  
 You will also have clause by clause talking points reflecting the changes and a revised ES.

I am aiming for 4.15pm completion of all of this.

Matt

**Matthew Richter** | Senior Manager  
 Phone (02) 6207 9143 | Fax (02) 6205 0866  
 Policy and Government Relations | ACT Health | ACT Government  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Wednesday, 28 October 2015 3:19 PM  
**To:** Richter, Matthew (Health); Orubuloye, Chris (Health)  
**Cc:** Pearson, Karen (Health); Andersen, Jackie (Health); O'Donoghue, Ross (Health); DDGCorporate; Hogan, Sonia (Health)  
**Subject:** RE: URGENT: Health (Patient Privacy) Amendment Bill 2015

Matt,  
 Just confirming that I will need a revised ES to reflect the change. Also, the clause by clause talking points for the Government amendments will also need to be updated to reflect the change please.

Can you let me know whether it will be possible to receive these updated documents this afternoon?

Many thanks,  
 Vanessa

**Vanessa Dal Molin**  
 Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
 Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity




---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Wednesday, 28 October 2015 3:15 PM  
**To:** Richter, Matthew (Health); Orubuloye, Chris (Health)  
**Cc:** Pearson, Karen (Health); Andersen, Jackie (Health); O'Donoghue, Ross (Health); DDGCorporate; Hogan, Sonia

(Health)

**Subject:** RE: URGENT: Health (Patient Privacy) Amendment Bill 2015

Matt,  
The Office has advised that PCO's suggestion is suitable.

Many thanks,  
Vanessa

**Vanessa Dal Molin**

Directorate Liaison Officer | Office of Simon Corbell MLA | Minister for Health |  
Phone: 620 50499 | Mobile: 0403 606 847 | Fax: 620 53030 | Email: [vanessa.dalmolin@act.gov.au](mailto:vanessa.dalmolin@act.gov.au)

Care ▲ Excellence ▲ Collaboration ▲ Integrity




---

**From:** Richter, Matthew (Health)  
**Sent:** Wednesday, 28 October 2015 3:00 PM  
**To:** Dal Molin, Vanessa (Health); Orubuloye, Chris (Health)  
**Cc:** Pearson, Karen (Health); Andersen, Jackie (Health); O'Donoghue, Ross (Health); DDGCorporate; Hogan, Sonia (Health)  
**Subject:** RE: URGENT: Health (Patient Privacy) Amendment Bill 2015  
**Importance:** High

Vanessa

PCO are of the view that the proposed language 'no later than 6 months' in the actual commencement provision is too vague.

They propose that it would be better to state that the amendment bill commences by notification with a note stating that if the bill hasn't commenced in 6 months, it automatically commences then.

Can you do what you need to do to assess if this is suitable. We can then draft it.

Apologies for cutting across the reporting lines everyone.

Mat

**Matthew Richter** | Senior Manager  
**Phone (02) 6207 9143** | Fax (02) 6205 0866  
**Policy and Government Relations | ACT Health | ACT Government**  
 Level 2, 11 Moore St | GPO Box 825 CANBERRA ACT 2601 | [www.act.gov.au](http://www.act.gov.au)  
 Care ▲ Excellence ▲ Collaboration ▲ Integrity

---

**From:** Dal Molin, Vanessa (Health)  
**Sent:** Wednesday, 28 October 2015 2:32 PM  
**To:** Orubuloye, Chris (Health)  
**Cc:** Pearson, Karen (Health); Andersen, Jackie (Health); Richter, Matthew (Health); O'Donoghue, Ross (Health); DDGCorporate; Hogan, Sonia (Health)  
**Subject:** URGENT: Health (Patient Privacy) Amendment Bill 2015

Hi Chris,

The Office has requested an urgent amendment to the Government Amendments for the Health (Patient Privacy) Amendment Bill. The amendment to Clause 2, Page 2, line 4 – should now read 'no later than six months'.

Could you please arrange for S&C to liaise with PCO urgently for the government amendment to be updated. The supp ES will also need to be updated.

Happy to discuss if there are any questions.

Thanks,  
Vanessa

---

**From:** Conroy, Kathryn  
**Sent:** Wednesday, 28 October 2015 2:24 PM  
**To:** Dal Molin, Vanessa (Health)  
**Cc:** Hosking, Kim; Boogs, Monika  
**Subject:** Privacy

Hi Vanessa

Can Health please amend the Privacy Amendment Bill so it says that commencement is "no later than six months" ?

Thanks

Kathryn

Kathryn Conroy | Health Adviser to Simon Corbell MLA

Deputy Chief Minister | ACT Attorney-General | ACT Minister for Health  
ACT Minister for the Environment | ACT Minister for Capital Metro

P: (02) 6205 9854 | M: 0416 428 678  
F: 6205 0535 | E: [kathryn.conroy@act.gov.au](mailto:kathryn.conroy@act.gov.au)

## Marion-Landais, Stephanie (Health)

---

**From:** Vosen, Kathleen (Health)  
**Sent:** Thursday, 29 October 2015 9:43 AM  
**To:** Richter, Matthew (Health); Marion-Landais, Stephanie (Health); Purser, Geoff (Health); O'Donoghue, Ross (Health)  
**Subject:** FW: Daily Program Thursday 29 October 2015  
**Attachments:** DP Thurs 29 Oct 2015.doc

Regards,

### Kathleen Vosen

Executive Officer

Policy and Government Relations Branch

Strategy and Corporate

ACT Health Directorate

ph: 6205 0832

mobile: 0466443276

---

**From:** Orubuloye, Chris (Health) **On Behalf Of** Ministerial and Government Services - Health

**Sent:** Thursday, 29 October 2015 9:42 AM

**To:** Andersen, Jackie (Health); Bookallil, Marianne (Health); Bracher, Katrina (Health); Browne, Deborah (Health); Carmody, Paul (Health); Centenera, Liesl (Health); Chatham, Elizabeth (Health); Collignon, Peter (Health); Croome, Veronica (Health); Dykgraaf, Mark (Health); Feely, Nicole (Health); Foster, Ron (Health); Ghirardello, Phil (Health); Gilmore, Lisa (Health); Kelly, Paul (Health); Kennedy, Rosemary (Health); Kohlhagen, Linda (Health); Kumar, Sarwan (Health); Lamb, Denise (Health); Mohay, Alexis (Health); O'Donnell, Rosemary (Health); O'Donoghue, Ross (Health); Redmond, Judy (Health); Reid, Barbara (Health); Scott, Adrian (Health); Sharpe, Liz (Health); Smith, Kim (Health); Thompson, Ian (Health); Van Haren, Frank (Health); Walsh, Jack (Health); Wilkinson, Christina (Health); Prentice, Helen (Health); Webster, Elizabeth (Health); Murphy, Karen (Health); Douglas, Kirsty (Health)

**Cc:** Donda, Jean-Paul (Health); Bailey, Andrew (Health); Dal Molin, Vanessa (Health); Sargeant, Vaidehi (Health); ACT Health, DDG Health Infrastructure & Planning; Ashhurst, Pip (Health); Campbell, Liz (Health); Carey, Megan (Health); Carriage, Debby (Health); Cassells, Brigid (Health); Cohen, Sarit (Health); Cuff, Sally (Health); Daly, Kelly (Health); DDGClinical; DDGCorporate; Divorty, Aimee (Health); Dorrell, Susanna (Health); Downes, Kylie (Health); Eley, Melissa (Health); Grayland, Geraldine (Health); Greenfield, Joanne (Health); Griffiths, Narelle (Health); Grimson, Melanie (Health); Hallam, Elizabeth (Health); Harman, Rebecca (Health); Hemming, Michelle (Health); Hogan, Sonia (Health); Hunt, Lynette (Health); Jakobs, Olivia (Health); Jenkins, Robyn (Health); Kibedi, Rebecca (Health); Kostoska, Daniela (Health); Lang, Kellie (Health); Lang, Samantha (Health); LeLievre, Maddie (Health); Mayoaran, Geetha (Health); McDonald, Jennie (Health); McKay, Heather (Health); McNamara, Vanessa (Health); McNeill, Laura (Health); Medwin, Sally (Health); Pini, Sallyanne (Health); Ramsay, Michelle (Health); Redmond, Joanna (Health); Robertson, Jean (Health); Rose, Christina (Health); Sahota, Navjeet (Health); Sek, Gabrielle (Health); Seppala, Sandra (Health); Spyropoulos, Rosy (Health); Stahre, Maria (Health); Vosen, Kathleen (Health); Warne, Hayley (Health); Wells, Rebecca (Health); Whittall, Christine (Health); Woollard, John (Health)

**Subject:** Daily Program Thursday 29 October 2015

Hi All

Please find attached a copy of today's Assembly program for your information and noting.

The Assembly proceedings commence at 10.00am and Question Time commences at 2.30pm.

Question Time should be listened to via the ACT Legislative Assembly website (within Government – video or audio link) –

<http://www.parliament.act.gov.au/functions/streaming/specify-location>

- Please note the following two items are relevant to ACT Health

- Health (Patient Privacy) Amendment Bill 2015—Resumption of debate (Mr Corbell) on agreement in principle; detail stage; agreement to Bill.
- Mr Smyth (Chair) to present Report 19 entitled *Review of Auditor-General's Report No 4 of 2014: Gastroenterology and Hepatology Unit, Canberra Hospital* and move—That the report be noted.

**All EDC Members and Executive Officers are expected to listen to Question Time and be contactable during the sitting week, not just during Question Time.**

Relevant staff within the Divisions should also be listening to Question Time in the event that urgent information is required for the Minister, if required this information will be requested by Ministerial and Government Services.

Please contact me on 59382 if you have questions regarding the Assembly proceedings

Chris Orubuloye | Assembly Liaison Officer  
Ministerial and Government Services  
Health Directorate | ACT Government

Ph: 6205 9382 | Level 3, 11 Moore Street | Canberra ACT 2600 |  
Email: [chris.orubuloye@act.gov.au](mailto:chris.orubuloye@act.gov.au) Website: [www.health.act.gov.au](http://www.health.act.gov.au)

***Care Excellence Collaboration Integrity***



# Daily Program

This program of proposed business is issued for the general guidance of Members. It is not a formal document and business listed is subject to change.

**Thursday, 29 October 2015**  
**10 am**

## **Prayer or Reflection**

## **EXECUTIVE BUSINESS**

### **Notices**

- No. 1 Road Transport (Public Passenger Services) (Taxi Industry Innovation) Amendment Bill 2015—Mr Barr (Chief Minister) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 2 Revenue (Charitable Organisations) Legislation Amendment Bill 2015—Mr Barr (Treasurer) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 3 Revenue Legislation Amendment Bill 2015—Mr Barr (Treasurer) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 4 Statute Law Amendment Bill 2015 (No. 2)—Mr Corbell (Attorney-General) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 5 Courts Legislation Amendment Bill 2015 (No. 2)—Mr Corbell (Attorney-General) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 6 Electoral Amendment Bill 2015—Mr Corbell (Attorney-General) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 7 Road Transport Legislation Amendment Bill 2015 (No. 2)—Mr Rattenbury (Minister for Justice) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 8 Animal Diseases (Beekeeping) Amendment Bill 2015—Mr Rattenbury (Minister for Territory and Municipal Services) to present Bill. Agreement in principle to be moved. Debate to be adjourned.
- No. 9 Holidays Amendment Bill 2015—Mr Gentleman (Minister for Workplace Safety and Industrial Relations) to present Bill. Agreement in principle to be moved. Debate to be adjourned.

## ASSEMBLY BUSINESS

### Orders of the day

- No. 1 Proposed amendment to standing order 210—Resumption of debate (Dr Bourke) on the motion of Ms Lawder.
- No. 2 Proposed amendments to standing orders relating to matters of public importance—Resumption of debate (Mr Smyth) on the motion of Mr Rattenbury.

### Notices

- No. 1 Proposed sitting pattern for 2016—Ms Burch to move the motion appearing on the Notice Paper in her name.
- No. 2 Referral of annual and financial reports to the relevant standing committees—Ms Burch to move the motion appearing on the Notice Paper in her name.

## EXECUTIVE MEMBER'S BUSINESS

### Order of the day

- No. 1 Health (Patient Privacy) Amendment Bill 2015—Resumption of debate (Mr Corbell) on agreement in principle; detail stage; agreement to Bill.

## COMMITTEE REPORTS

### Standing Committee on Administration and Procedure - Report 7

Mrs Dunne (Chair) to present Report 7 entitled *Inquiry into the Review of the Implementation of the Latimer House Principles in the Australian Capital Territory for the 8<sup>th</sup> Assembly*. Dr Bourke to move—That the report be noted.

### Standing Committee on Justice and Community Safety - Report 5

Mr Doszpot (Chair), pursuant to the resolution of the Assembly of 7 May 2015, as amended 11 August 2015, to present Report 5 entitled *Inquiry into the Human Rights Amendment Bill 2015* and move—That the report be noted.

### Standing Committee on Public Accounts - Report 16

Mr Smyth (Chair) to present Report 16 entitled *Review of Auditor-General's Report No 4 of 2013: National Partnership Agreement on Homelessness* and move—That the report be noted.

### Standing Committee on Public Accounts - Report 17

Mr Smyth (Chair) to present Report 17 entitled *Review of Auditor-General's Report No 8 of 2013: Management of Funding for Community Services* and move—That the report be noted.



## Standing Committee on Public Accounts—Report 19

Mr Smyth (Chair) to present Report 19 entitled *Review of Auditor-General's Report No 4 of 2014: Gastroenterology and Hepatology Unit, Canberra Hospital* and move—That the report be noted.

## EXECUTIVE BUSINESS—continued

### Orders of the day

- No. 1 Rates Amendment Bill 2015—Resumption of debate (Mr Smyth) on agreement in principle; detail stage; agreement to Bill.

### At 2.30 pm

### Questions without notice

- Presentation of papers**
- Speaker
  - Mr Barr (Chief Minister)
  - Mr Barr (Treasurer)
  - Mr Corbell (Attorney-General)
  - Mr Corbell (Minister for Health)
  - Ms Burch (Minister for Police and Emergency Services)
  - Mr Gentleman (Minister for Planning)

### Discussion of Matter of Public Importance—Mr Wall

*“The impact of rates increases on the Canberra community.”*

**Time Limits:** Discussion 45 minutes, Proposer 15 minutes, any other Member 10 minutes.

## EXECUTIVE BUSINESS—continued

### Orders of the day - continued

- No. 2 Spent Convictions (Historical Homosexual Convictions Extinguishment) Amendment Bill 2015—Resumption of debate (Mr Hanson) on agreement in principle; detail stage; agreement to Bill.
- No. 3 Children and Young People Amendment Bill 2015 (No. 3)—Resumption of debate (Ms Lawder) on agreement in principle; detail stage; agreement to Bill.

### Adjournment

**T Duncan**  
Clerk of the Legislative Assembly