ACT Government
Justice and Community Safety

Open Access release outcome decision – Full access granted

Document Category: Ministerial Briefs

Title of document: Minister for Human Rights – Quarter 4 2020 briefs

Description of the information: Question Time Briefs provided to the Minister for Human Rights between 1 October and 31 December 2020.

The original record of this document did not contain information, the release of which would be contrary to the public interest. As such, the information contained in this document has been released in full for the reasons outlined below.

Grounds for decision to release

As per the public interest test set out in section 17 of the FOI Act, I have assessed the information contained in the ministerial briefs as being suitable for full release.

I have included below the relevant factors considered in making this decision.

2.1 Factors favouring disclosure in the public interest

(a) Disclosure of the information could reasonably be expected to do any of the following:

(i) promote open discussion of public affairs and enhance the government's accountability;

(ii) contribute to positive and informed debate on important issues or matters of public interest;

(iv) ensure effective oversight of expenditure of public funds;

(viii) reveal the reason for a government decision and any background or contextual information that informed the decision.

I consider that the release of the ministerial briefs may be expected to help inform ongoing discussions and debate on matters of continued public importance. The disclosure of this information also helps to promote government accountability and transparency.

Review rights

My decision to release or withhold open access information is a reviewable decision as identified in Schedule 3 of the FOI Act. You can seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the Justice and Community Safety Directorate website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the ACT Ombudsman at:

ACT Ombudsman
Attention: ACT Strategy and FOI Section
GPO Box 442
CANBERRA ACT 2601
Via email: actfoi@ombudsman.gov.au

Further assistance

If you have any queries regarding this Open Access release, please contact JACSFOI@act.gov.au or phone (02) 6207 2167.

Authorised by

L. Callow

Lauren Callow
Information Officer
2 January 2026

ACT Government
Justice and Community Safety

OPEN ACCESS Q4 2020 SCHEDULE
PORTFOLIO: MINISTER FOR HUMAN RIGHTS

No.	Folio	Description	Date	Status	Reason for non-release or deferral
Question Time Briefs - Sitting Days 2 & 3 December 2020					
1	1	Question Time Briefs Index - 2 & 3 December 2020	December		
2	2-3	Funding for VOCAL	December		
3	4-5	Resourcing of the HRC and Complaints Handling	December		
4	6-7	Right to a Healthy Environment	December		
5	8-9	Right to Housing	December		
6	10-13	Victims Rights Legislation Amendment Bill 2020	December		
7	14-16	Discrimination and Religious Freedom Bills	December		

MINISTER FOR HUMAN RIGHTS

QUESTION TIME BRIEFS

Question Time Briefs	
1.	Funding for VOCAL
2.	Resourcing of the HRC and complaints handling
3.	Right to a healthy environment
4.	Right to housing
5.	Victims Rights Legislation Amendment Bill 2020
6.	Discrimination and Religious Freedom Bills

QUESTION TIME BRIEF

MIN:2020/000095-086

Portfolio/s: Human Rights

ISSUE: FUNDING FOR VOCAL

Talking points:

- There is no doubt that victims of crime need access to services provided by the ACT Government, in particular access to appropriate and trauma-informed therapeutic services to assist in their recovery.
- Prior to 2012, the Victims of Crime Assistance League ACT (VOCAL) provided a volunteer victim support program with financial assistance from the ACT Government.
- However, when Victim Support ACT (VSACT) became part of the ACT Human Rights Commission in 2015-16, the volunteer program transitioned to operation by VSACT to improve its alignment with the Victim Services Scheme which is administered by VSACT.
- The volunteer program is delivered by experienced and skilled volunteers at VSACT, which provides a single point-of-contact for both victim support and advocacy services.
- VOCAL continue to provide a range of free support services to victims of crime in the ACT including emotional support, court support, and practical assistance; and work closely with VSACT including as a key referring agency.
- The ACT Government is committed to continuing to work in partnership with community agencies to support and improve services for victims of crime and other vulnerable groups in the ACT.

Key Information

- VOCAL was formed in response to unmet need in the community and was contracted from 2000 to deliver practical assistance to victims of crime. VOCAL was exempted from being required to participate in an open tender process because of its specialty expertise in delivering a volunteer victim support program.
- In October 2011 an open tender process was conducted for the provision of this service, reflecting that a number of not-for-profit organisations had built volunteer service capacity.

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TRIM Ref:	2020/000095-086	

- A number of community agencies tendered for the volunteer victim support service. The contract was awarded to Communities@Work who established the *Side by Side: Volunteers Assisting Victims* program. That contract was for entered into for up to three years to provide practical assistance and support to victims of crime, and to develop and conduct a community awareness program to promote the interests of victims.

Background information

- The Charter of Rights for Victims of Crime, established in the *Victims Rights Legislation Amendment Act 2020* which comes into effect on 1 January 2021, will further improve the opportunities for victims of crime to receive information and participate in the justice system including in relation to access to information, supports and assistance.
- The Charter replaces the broad, aspirational 'governing principles for the treatment of victims of crime in the administration of justice' in the *Victims of Crime Act 1994* (under section 4) and details victim rights in areas including protection of privacy and safety; access to support services and assistance; provision of information and case updates; and opportunities to participate in the justice process.
- The *Victims of Crime Regulation 2000* (VOC Regulation) establishes the Victim Services Scheme (VSS) under the *Victims of Crime Act 1994* (VOC Act). The VSS outlines the eligibility criteria, levels of service provision and functions of the Victims of Crime Commissioner (VOCC) in relation to administering the scheme. This includes counselling and other therapeutic services, case coordination, and advocacy and assistance to victims as they navigate the criminal justice system.
- The review of the Victims of Crime Financial Assistance Scheme in the *Victims of Crime (Financial Assistance) Act 2016* (VOCFA Act), Victim Services Scheme established in the VOC Regulation and victim levies (in Part 5 of the VOC Act and Part 7 the VOCFA Act) will continue to ensure the ACT is meeting the recovery needs of victims through appropriate financial and therapeutic assistance, and to ensure that these schemes are administratively streamlined and appropriately offset.
- The ACT Government holds an annual community consultation process for individuals and organisations to give feedback on gaps in government funding. The next round of community consultation on the budget will be in February 2021.

QUESTION TIME BRIEF

MIN:2020/0000100-003

Portfolio/s: Human Rights

Issue: ACT Human Rights Commission – Complaints handling and resourcing

Talking points:

- The ACT Human Rights Commission provides a range of important service to our Canberra community to ensure that people's rights are protected
- The Commission provides independent and impartial complaint handling for a range of complaints, including complaints about discrimination, health services, disability services, services for children and young people and services for older people.
- Recently, the Commission's jurisdiction has been expanded to allow the Commission to consider complaints about retirement villages and about abuse and neglect of vulnerable people. Further amendments will commence during 2021 giving the Commission jurisdiction to handle complaints about occupancy agreements, victims rights and prohibited conversion practices.
- These changes recognise the excellent work that the Commission does in handling complaints fairly and impartially, and the trust that the community has in the Commission to consider and seek to resolve difficult issues.
- An independent review is currently being conducted, as required under the Human Rights Commission Act, regarding changes that were made to the Human Rights Commission, including the bringing together of a range of complaints handling roles under one Commissioner. The review report is required to be tabled by June 2021.
- The Government will continue to monitor the resourcing needs of the Human Rights Commission to ensure that it is well placed to perform its important functions.

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	2020/0000100-003	

QUESTION TIME BRIEF

- The protection of rights services reforms made changes that came into effect on 1 April 2016. These reforms consolidated all complaints handling under one Commissioner (the Discrimination, Health Services and Disability and Community Services Commissioner), with a view improving efficiencies and consistency.
- The effectiveness of these reforms is one of the matters being considered by an independent review being conducted by Insight Consulting Inc. The review has sought the views of a range of stakeholders.
- The Commission has also been given a range of new complaints handling functions. Any additional resourcing required for these functions has been and will be considered by the Government as part of its normal budget processes to ensure that the Commission is able to properly discharge its functions.

Background Information - new functions

- From 1 July 2019 the Commission was given additional jurisdiction to conciliate complaints about retirement villages.
- From 14 May 2020 the Commission was given additional jurisdiction to consider complaints about the abuse and neglect of vulnerable people, as part of the response to the COVID-19 pandemic. These measures are temporary, expiring 12 months after the end of the emergency declaration, but will be reviewed by the Government before that date to determine whether the measures should be extended or made permanent.
- From 1 January 2021, the Commission will have jurisdiction to consider complainst about victims rights.
- From 4 March 2021, the Commission will have jurisdiction to consider complainst about occupancy agreements and prohibited conversion practices.
- The extent to which these new roles create additional work for the Commisison will be monitored, and any need for additional resources will be considered in the Government's normal budget processes.

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TRIM Ref:	2020/0000100-003	

QUESTION TIME BRIEF

MIN:2020/000095-087

Portfolio/s: Human Rights

RIGHT TO A HEALTHY ENVIRONMENT

Talking points:

- The Parliamentary and Governing Agreement for the 10th Assembly foreshadows the potential inclusion of a 'right to a healthy environment' in the *Human Rights Act 2004*.
- Consideration is being given to how a right to a healthy environment could be included in the *Human Rights Act*.

Key Information

- There is no standalone right to a healthy environment in the international human rights treaties to which Australia is a party (including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights).
- The right to a healthy environment may be seen as an aspect of the right to health under the International Covenant on Economic, Social and Cultural Rights. In particular, the right to health includes the right to live in conditions that promote a healthy life (such as access to safe drinking water, adequate sanitation, healthy occupational and environmental conditions).
- The right to a healthy environment may also be seen as an aspect of the right to life, which is already protected under section 9 the *Human Rights Act*. This is because the right to life includes an obligation to address the general conditions in society that may give rise to threats to the right to life (including conditions such as environmental pollution).
- Similarly, the degradation of the environment may adversely affect the well-being of individuals and have direct repercussions on a person's private and family life and the home and may therefore be relevant to the right to privacy in section 12 of the *Human Rights Act.*
- Where the right to a healthy environment has been recognised, the content of that right has been expressed in different ways, including as entailing a procedural obligation (such as the right to access environmental information held by authorities), a substantive obligation (such as an obligation to protect against environmental harm), or a combination of both.
- In jurisdictions where a right to a healthy environment is recognised, it has been relevant in challenging administrative decisions that have environmental impacts.

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TRIM Ref:	2020/000095-087	

QUESTION TIME BRIEF

Background Information

- In the statutory review of the Human Rights Act after its first 12 months of operation, it was noted that at the time the Act was introduced the government did not support incorporating a free-standing environmental right directly into law. It considered that many of the civil and political rights protected in the Human Rights Act would apply to environmental matters.[1] The recommendation from that report was that the Government should not consider specific mechanisms to protect environment-related rights before other recommendations were addressed.
- However, since that time a number of reforms have occurred to strengthen the Act and other rights have been added to the Human Rights Act, including cultural rights of Aboriginal and Torres Strait Islander Peoples, the right to education and the right to work.
- The Parliamentary and Governing Agreement for the 10th Assembly foreshadows consideration of the inclusion of a 'right to a healthy environment' in the *Human Rights Act 2004*.

[1] ACT Department of Justice and Community Safety, *Human Rights Act 2004, Twelve-Month Review Report* (2006).

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TRIM Ref:	2020/000095-087	

QUESTION TIME BRIEF

MIN:2020/000095-088

Portfolio/s: Human Rights

RIGHT TO HOUSING

Talking points:

- The *Human Rights Act 2004* (HRA) does not contain a right to housing.
- A number of stakeholders have called for the HRA to be amended to include a human right to housing.
- Housing rights do not fall entirely outside of the HRA. Section 12 of the HRA provides for the right not to have one's home interfered with unlawfully or arbitrarily. This protects a person's home from trespass, harassment, nuisance, searches or surveillance.
- Other human rights in the HRA such as the rights of children and families to protection and the right to equality will also be relevant considerations in decision-making by public authorities regarding public or community housing.
- The Government has undertaken measures during the COVID-19 pandemic to alleviate the impact of the public health emergency on access to adequate and appropriate housing. This included a six-month moratorium on eviction for non-payment of rent and on rent increases (from April to October 2020), and a continued ability (until January 2021) for landlords, tenants, grantors and occupants to negotiate reduced rent if the tenant is suffering from financial hardship due to the pandemic.

Key Information

- Other jurisdictions in Australia with human rights legislation do not yet have a right to housing in their respective human rights acts.
- The right to housing is established in international law by article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* and recognises the 'right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions'.
- The right to housing is not merely a right to have shelter, it encompasses adequate privacy, space, security, lighting, ventilation, basic infrastructure, and location – all at a reasonable cost.[1]

[1] UN Committee on Economic, Social and Cultural Rights, *General Comment No.4: The Right to Adequate Housing (Art. 11(1) of the Covenant),* 13 December 1991, E/1992/23.

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	2020/000095-088	

- The right to housing applies to everyone. Individuals as well as families are entitled to adequate housing regardless of age, economic status, group or other affiliation or status. Enjoyment of the right must not be subject to any form of discrimination.[2]

Background Information

- In 2010 an Australian Research Council linkage project between the Australian National University and the Justice and Community Safety Directorate examined the feasibility of introducing economic, social and cultural rights into the HRA, and that was published in 2010. That report recommended the HRA be amended to include economic, social and cultural rights in the HRA, including the right to housing. [3]
- The Government response to that report noted that an incremental approach to the adoption of economic, social and cultural rights was preferred, with the right to education being the initial focus but with the potential for further economic, social and cultural rights to be considered over time.
- In 2014, the Government undertook a statutory review into the operation of the Human Rights Act focusing on the including of economic, social and cultural rights in the HRA. This report was tabled by the Attorney-General in the Legislative Assembly on 27 November 2014.
- The review concluded that the right to housing was substantially satisfied by existing policy, initiatives and services and given effect by laws including *Residential Tenancies Act 1997* (ACT), the *Housing Assistance Act 1997* (ACT), the *Discrimination Act 1991* (ACT) and the *Utilities Act 2000* (ACT).
- In September 2020 the ACT Council of Social Services (ACTCOSS), supported by Canberra Community Law and the Women's Legal Centre, called for the ACT Government to enshrine the right to housing in the Human Rights Act.[4]

[2] UN Committee on Economic, Social and Cultural Rights, *General Comment No.4: The Right to Adequate Housing (Art. 11(1) of the Covenant),* 13 December 1991, E/1992/23, [6].
[3] Australian Capital Territory Economic Social and Cultural Rights Research Project, Australian Research Council Linkage Project LP0989167 Report September 2010.
[4] https://www.canberratimes.com.au/story/6918107/social-services-call-for-more-act-human-rights-protections/

QUESTION TIME BRIEF

MIN:2020/000095-084

Portfolio/s: Attorney-General

ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME

Talking points:

- The *Victims Rights Legislation Amendment Act 2020* will commence on 1 January 2021, meeting the ACT Government's ongoing commitment to establish a Charter of Rights for Victims of Crime.
- The Charter details victim rights in areas including protection of privacy and safety; access to support services and assistance; provision of information and case updates; and opportunities to participate in the justice process.
- The Charter has been developed in close consultation with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies in order to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- Implementation planning activities are underway to support victims to access rights set out in the Charter and to support justice agencies to uphold rights, including through the development of new information materials.
- Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma and to encourage crime to be reported.
- Victim rights will be upheld in a balanced way with the rights of defendants. An accountability framework for the Charter obligates justice agencies to uphold rights. It establishes a process for victims to seek acknowledgement of the impact of any breaches, and provides opportunities for changes in victim engagement practices.

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	MIN:2020/000095-084	

QUESTION TIME BRIEF

- In establishing the Charter of Rights for Victims of Crime, the ACT Government has listened to what victims have to say about our criminal justice system. I take this opportunity to thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period that has led to the Charter commencement and implementation.

Key Information

- The Charter is accompanied by practical implementation initiatives to strengthen victim rights. In addition to information resources, staff resources for key justice agencies and a flexible Victims of Crime Commissioner fund (as outlined in the below table), implementation activities include:
    - Three victims registers will relocate to Victim Support ACT to improve information flow and provide wrap-around support and advocacy for victims when engaging with the justice system. The adult, youth justice and affected persons registers provide information to victims about an offender's sentence and treatment so victims can make decisions about their safety and participate in justice processes.
    - Justice agencies must develop guidelines about how they will support victims' rights, to be published on their website by 1 January 2022.
    - The Victims Advisory Board will monitor the implementation and impact of the Charter.
    - The accountability framework for the Charter enables victims to approach a justice agency directly, the Victims of Crime Commissioner (VOCC) or the ACT Human Rights Commission (HRC) with a complaint about a victim right.

Timeframe	Initiative
July 2020	Development of community education and information resources about the Charter and justice processes, managed by the Victims of Crime Commissioner ($45,000).
August 2020	Ongoing FTE for justice agencies to assist with victim engagement. - VOCC & HRC 1.2 FTE (in addition to relocation of ASO6 FTE from Corrections to Victim Support when the adult victims register is relocated) - DPP 1 x FTE - ACT Policing 1 x FTE - Courts 1 x FTE - Corrections 0.5 x FTE Decisions about resources allocated to key justice agencies were made based on their victim engagement role in relation to the Charter.

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	MIN:2020/000095-084	

QUESTION TIME BRIEF

Timeframe	Initiative
January 2021	**Charter commences**
July 2021	Two year VOCC flexible fund pilot, to ascertain how flexible funds can assist to meet diverse and individually identified victim needs to support access to victim rights in practice, filling gaps where other provisions are not available ($25,000 per year for two years). Public consultation showed that victims most want and value a justice system that is responsive to their individual needs. While the ACT has multiple avenues for victim support, there are often gaps. As the ACT is a small jurisdiction, it is not viable to establish entirely new services to meet these individualised needs, which are often varied and difficult to predict. This pilot is based on a South Australian model. Examples of where funds may be used to support victim participation in the justice process include providing transport, childcare, or interpreting costs for a victim to watch a court proceeding.

- The review of the Victims of Crime Financial Assistance Scheme in the *Victims of Crime (Financial Assistance) Act 2016* (VOCFA Act), Victim Services Scheme established in the *Victims of Crime Regulation 2000* and victim levies (in Part 5 of the *Victims of Crime Act 1994* and Part 7 the VOCFA Act) will continue to ensure the ACT is pursing best practice in meeting the recovery needs of victims through appropriate financial and therapeutic assistance, and that these schemes are administratively streamlined and appropriately offset.
- Options to address three key issues identified during Charter consultations will be further considered in a second tranche of reforms including ways to strengthen the delivery of Victim Impact Statements; whether to expand the categories of victims who can receive information from the adult victims register; and how to protect victim privacy when personal information such as counselling records are subpoenaed.
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectations that victims are central to justice processes is growing. Criminal justice responses must be triangulated in the interests of defendants, victims and society. Victim rights are carefully balanced to ensure that rights of both victims and accused persons are respected.
- The Charter builds on the commitment of justice agencies to victims of crime. The independence of justice agencies is protected in the Charter through the following measures:

- The DPP need not comply with HRC complaint process when participating would impact on a prosecution or their independence.
- Courts and tribunals are only obligated to uphold the Charter in an administrative capacity, not when fulfilling their functions in relation to proceedings. Justices and magistrates are excluded from compliance with obligations.
- The Charter does not create legal rights that could give rise to civil action; affect the interpretation or operation of other territory laws; or affect the validity, or provide grounds for review, of any judicial or administrative act or omission.
- Justice agencies do not commit an offence if a requirement of the *Human Rights Commission Act 2005* is not upheld in relation to the victim rights complaints consideration process i.e., to provide a document or attend conciliation.

- The development of the Charter complements other ACT Government access to justice reforms, particularly for the most vulnerable members of our community, including through the Canberra as a Restorative City initiative; Reducing Recidivism strategy; implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations including the introduction of a Witness Intermediary Scheme in early 2020; and the Disability Justice Strategy launched in August 2019.

Background Information

- The Parliamentary Agreement to the 9th Legislative Assembly committed to the introduction of an ACT Rights of Victims Charter. All other states and territories in Australia have introduced victim rights as principles or guidelines.
- During the public consultation period from 22 June to 27 August 2018, over 440 community members were reached including feedback from over 100 direct victims of crime.
- Common feedback from victims of crime during consultations included wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions. Having a voice in the justice system is particularly important for diverse and marginalised community members.
- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.
- The Charter builds on the ACT's strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory VOCC role (2010) and its integration into the HRC (2016).

Cleared as complete and accurate:	30/11/2020	
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TRIM Ref:	MIN:2020/000095-084	

QUESTION TIME BRIEF

MIN:2020/000095-062

Portfolio: Human Rights

ISSUE: DISCRIMINATION AND RELIGIOUS FREEDOM BILLS

Talking points:

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person on the basis of a protected attribute in areas of public life including education, employment and in receiving goods and services.
- The *Discrimination Act* identifies a wide range of protected attributes, including race, sex, disability, sexual orientation, religious conviction, and gender identity. More recently added attributes include accommodation status, employment status and immigration status.
- The Parliamentary and Governing Agreement for the 10th Assembly provides under "Agreed Legislative Reforms" that the Government will review the Discrimination Act as part of the implementation of the Capital of Equality Strategy.
- The First Action Plan under the Capital of Equality Strategy commits to "Progress consultations on reforms to the Discrimination Act 1991, including reforming exceptions that have a discriminatory effect on the LGBTIQ+ community, drawing on recommendations of the Law Reform Advisory Council."
- In 2015, the ACT Law Reform Advisory Council (LRAC) released its final report from its *Review of the Discrimination Act 1991* (the LRAC Report). The Report recommended a series of reforms to the *Discrimination Act 1991* The Government has already given effect to a number of the LRAC's recommendations through reforms to the Discrimination Act passed in 2016, 2018 and 2020:
- The Discrimination Amendment Act 2016 refined the objects of the Act, broadened its coverage by introducing new protected attributes, refined existing protected attributes, simplified the complaints procedure to promote access to justice, strengthened the law on victimisation so complainants are protected from the threat of detriment for exercising their rights, and expanding protections against vilification to apply to people with disability.

Cleared as complete and accurate:	27/11/2020	
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TRIM Ref:	2020/000095-062	

- The Discrimination Amendment Act 2018 made targeted reforms to prevent discrimination against LGBTIQ+ students and staff in religious educational institutions.
- Amendments to the Discrimination Act were introduced in the Justice Legislation Amendment Act 2020, including revising the definitions in the Discrimination Act to change the definition from 'intersex status' to 'sex characteristics' and include 'gender expression' within the definition of 'gender identity'
- A discussion paper is currently being developed for public consultation, focusing on reform proposals in relation to the range of exceptions in the Act (there are currently over 50 exceptions) as well as the scope of application of the Act to different areas of public life.
- Further discussion papers will be developed in 2021.

Religious Freedom

- On 29 August 2019, the Commonwealth Government released the first exposure draft of the Religious Freedom Bills: Religious Discrimination Bill 2019, Religious Discrimination (Consequential Amendments) Bill 2019 and Human Rights Legislation Amendment (Freedom of Religion) Bill 2019.
- On 10 December 2019, the Commonwealth Government released the second exposure draft of the Religious Freedom Bills: Religious Discrimination Bill 2019, Religious Discrimination (Consequential Amendments) Bill 2019 and Human Rights Legislation Amendment (Freedom of Religion) Bill 2019.
- Section 42 of the Religious Discrimination Bill expressly overrides State and Territory discrimination legislation, providing that a 'statement of belief' does not constitute discrimination.
- A 'statement of belief' is defined as a statement of a religious belief held by a person that is made by the person in good faith and is of a belief that a person of the same religion could reasonably consider to be in accordance with the doctrines, tenets, beliefs or teachings of that religion.
- Additionally, a number of other provisions may also operate to undermine the protections currently available under ACT law. This is

because, unlike existing Commonwealth discrimination law, the Bill is not explicitly designed to operate concurrently with State and Territory discrimination law.

- The right to religious freedom is protected in the ACT under our *Human Rights Act* and is recognised as a fundamental human right. However, I am concerned that the Commonwealth provision may go too far, by prioritising freedom of religion over other rights, and potentially undermining existing protections currently enjoyed by ACT residents.
- This might, for example, reduce protections available to people who are the subject of discriminatory statements based on religious beliefs. While we should protect religious freedom, there will be situations where statements even of genuine religious belief can be experienced as discriminatory and hurtful to people who are just trying to use a service or participate in an area of public life.
- The ACT Government made a submission to the Commonwealth calling for these provisions to be narrowed, to avoid undermining existing protections currently enjoyed by ACT residents. The ACT Government's submission is now online along with a select number of other submissions on the Attorney-General's Department website.
- The ACT Human Rights Commission also made a submission calling for these provisions to be narrowed.
- If anyone believes they have been subject to discrimination or vilification in the ACT, I encourage them to contact the ACT Human Rights Commission to talk through the complaints process.

Key Information

- The Human Rights Commission is an independent agency that promotes the human rights and welfare of people in our community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.