



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
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Submission Cover Sheet

Inquiry into Petition 32-21 (No Rights Without Remedy)

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Standing Committee on Justice and Community Safety Committee
ACT Legislative Assembly
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INQUIRY INTO PETITION 32-21 (NO RIGHTS WITHOUT REMEDY)

The ACT Law Society welcomes the opportunity to comment on the Inquiry into Petition 32-21 (No Rights Without Remedy) (the Petition).

We note that the Petition calls on the Legislative Assembly to amend the *Human Rights Act 2004* (ACT) (the Act) to establish a complaint mechanism, similar to the *Discrimination Act 1991* (ACT) (DA) to:

- Enable a complaint about *any breach* of the Act to be made to the ACT Human Rights Commission (ACT HRC) for conciliation; and
- If conciliation is unsuccessful, enable a complaint to be made to the ACT Civil and Administrative Tribunal (ACAT) for resolution.

Under the current legal framework, a person may commence a legal proceeding in the Supreme Court against a public authority if the authority acts in a way that is incompatible with a human right or, in making a decision, fails to give proper consideration to a relevant human right.¹ The ACT HRC is also empowered to investigate and conciliate a number of complaints in relation to the provision of public services.

We consider that the proposal in the Petition would strengthen the human rights legal framework in the ACT, noting that complaints are not always resolved at conciliations, and the costs and delays involved in commencing a proceeding in the Supreme Court are significant barriers for many complainants, particularly vulnerable people who are from low socioeconomic backgrounds, culturally or linguistically diverse, or in detention centres. Allowing complaints about breaches under the Act to be made to the ACT HRC and ACAT is likely to reduce barriers and make the process more accessible for many complainants.

We support the introduction of a complaint mechanism for breaches of the Act made by public entities, or other entities, already covered by the Act. It is however important to ensure that the ACT HRC, ACAT and other relevant agencies are adequately resourced to handle the potential increase in complaints. We also note and support an approach similar to that of the Queensland Human Rights Commission in clarifying that the complaint mechanism does not apply to:

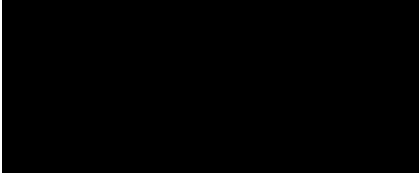
- Federal government departments and agencies;

¹ *Human Right Act 2004* (ACT) ss 40B - 40C.

- Private businesses (not providing public services); or
- Decisions by court or judges.

We would be pleased to provide further input if that would be of assistance.

Yours sincerely,



Simone Carton
Chief Executive Officer