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**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

TENTH ASSEMBLY

**Standing Committee on Justice and Community Safety - Report No 20 - Inquiry into
Penalties for Minor Offences and Vulnerable People – Government Response**

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Introduction

On 1 March 2023, the Standing Committee on Justice and Community Safety (the Committee) resolved to conduct a self-initiated Inquiry into penalties for minor offences and vulnerable people. The Committee reported on 26 October 2023 and made 13 recommendations.

The terms of reference for the Inquiry stated the Committee would inquire and report on administrative penalties for minor offences in respect of vulnerable people with particular reference to:

- Impacts of fines on vulnerable people;
- Suitability of existing formal government guidelines for considering treatment of vulnerable people in administering penalties;
- Impacts of prosecution for vulnerable people for non-payment of fines;
- Suitability of current ACT Government alternative measures to fines;
- Alternatives to prosecution for non-payment of fines; and
- How to maximise compliance with legislation, particularly for young people.

‘Administrative penalties’ is an umbrella term for fines issued administratively rather than by a court following criminal prosecution. The ACT has multiple legislative and operational schemes for issuing and enforcing administrative penalties: the main two being parking and traffic offences under road transport legislation and miscellaneous offences under the *Magistrates Court Act 1930*. Each scheme has its own processes in place to reduce hardship, with varying levels of complexity. The most detailed hardship provisions and guidelines apply to parking and traffic infringements, which represent the vast majority of administrative penalties issued.

Many of the Committee’s recommendations will be achieved through the implementation of the *Magistrates Court (Infringement Notices) Amendment Act 2020* (the Amendment Act). Based on the scheme currently in operation under road transport legislation, the Amendment Act creates an extended range of options for discharging penalties for infringement notices issued under the *Magistrates Court Act 1930*.

These options include:

- Entering into an ‘infringement notice management plan’ to:
 - pay by instalments; or
 - participate in an approved community work or social development plan in lieu of paying the infringement penalty; or
 - if the individual has an infringement notice management plan, to add the infringement notice penalty for the offence to the individual’s plan, or
- Applying to have the penalty waived.

Through implementation of the Amendment Act, the ACT Government aims to ensure the payment system for infringements can better accommodate the circumstances of people on low incomes or who are otherwise disadvantaged.

Implementing the Amendment Act is a whole-of-government undertaking. No one area of Government is responsible for administrative penalties. Instead, administrative penalties are used as a tool used in a range of policy areas.

The ACT Government is committed to using administrative penalties in a manner which achieves deterrence while avoiding undue hardship. As highlighted by the terms of reference, financial penalties carry a risk of inequitable outcomes for marginalised communities. Implementation of the Amendment Act will improve the Government's ability to achieve better, fairer outcomes for the wider community.

ACT Government Response to Recommendations

Recommendation 1

The Committee recommends that the ACT Government reviews the impact of penalties for minor offences, particularly public space offences and offensive behaviour offences, as to their current relevancy, use and impacts on vulnerable people, particularly Aboriginal and Torres Strait Islander people.

Agreed

The Committee noted a range of evidence demonstrating the hardship that vulnerable people can face when issued a fine. The 'cascading effect' of consequences that entail from being unable to pay even a small fine was also noted.

The Committee also noted a range of stakeholder observations about the justice system generally and its effects on vulnerable people, particularly Aboriginal and Torres Strait Islander people.

It is difficult for ACT Government agencies to identify the impact of infringement notices on vulnerable people because agencies do not routinely collect or collate demographic data on recipients of infringement notices. Only the age and gender of individuals who receive traffic infringement notices and criminal infringement notices is collected. Noting these limitations, the ACT Government agrees to consider existing datasets for further insights into the impact of penalties for minor offences on vulnerable people in the ACT, with particular reference to offences cited in the Committee's recommendation.

As outlined in the Government's submission to the Inquiry, hardship provisions and/or processes apply to each framework under which administrative penalties are issued in the ACT in recognition of the impact infringement notices can have on vulnerable people in our community. The most detailed formal guidelines apply under the *Road Transport (General) Act 1999* because parking and traffic infringements represent the vast majority of administrative penalties. The Amendment Act, which commences in February 2024, makes the same hardship options available for parking and traffic offences to infringement notices issued under the Magistrates Court Act. Noting the limitations outlined above, the ACT Government agrees to review available datasets for any further available insights on the impact infringement notices might have on vulnerable people in the ACT. Implementation of

the Amendment Act will also provide a new opportunity to consider the use and impact of financial hardship options for repayment of infringement notices.

Recommendation 2

The Committee recommends that the ACT Government explore law reforms with regards to the suspension of a driver's licence only ever occurring based on the substance of a traffic offence rather than on the basis of a failure to pay a fine or penalty.

Agreed in Principle

The ACT Government acknowledges the Committee's concerns with licence suspension as a result of non-payment of a fine or penalty. Loss of driving rights for non-payment of traffic-related fines and penalties has existed in ACT legislation for several decades, and application of this sanction is generally reserved for offenders who have demonstrated extensive non-compliance with existing options for paying fines or court penalties.

Under the *Road Transport (General) Act 1999* an offender has six possible pathways to manage payment of an infringement. They can: pay as stated; enter an infringement notice management plan; apply to waive the notice; apply for withdrawal; assert the infringement was not committed by them; or dispute liability for the offence. An offender can also apply for an extension of time to complete any of the six possible pathways.

Pathways to manage court-imposed financial penalties also exist for offenders. While these financial penalties cannot be waived as they are orders of the court, offenders are able to set up payment plans with the ACT Courts' Fines Enforcement Unit with as little as a \$5/week or \$10/fortnight repayment. Further, offenders can apply to have the administrative fee waived if they can prove genuine hardship, with a waiver granted by the Registrar. In circumstances where an offender may face driver licence suspension for non-payment of court penalties, several notifications are sent to the offender informing them of the potential for a driver licence suspension sanction to be applied before ACT Courts notify the Road Transport Authority (RTA) of the non-compliance. The RTA will then take further administrative action, including further notification, before a driver licence is suspended for non-payment of a court penalty.

These pathways provide offenders with reasonable opportunities to manage their obligations before they have 'not paid' the infringement or penalty, potentially leading to a loss of driving rights. Licence suspension is a last resort but remains a strong deterrent to fine avoidance. The potential for licence suspension is also likely a primary reason why offenders who are unable to pay the fine in full may choose to enter a payment plan or a payment-alternative such as a Work and Development Program (WDP).

The Government is also aware of programs in other jurisdictions that are designed to provide early intervention to divert young offenders away from the criminal justice system. These measures are similar to measures already implemented in the ACT such as a separate Childrens Court, the Youth Alcohol and Drug Diversion Programs, Restorative Justice Conferencing, Mental Health Community Policing Initiative, ACT Policing's Aboriginal and Torres Strait Islander Liaison Officer network, Canberra Police Community Youth Club, and Constable Kenny Koala. These measures have demonstrated and evidenced success at diverting youth and other vulnerable community members from the criminal justice system in the ACT, and also in other Australian and international jurisdictions.

The Government will investigate other programs interstate and overseas where vulnerable members of the community are able undertake voluntary programs, such as a defensive or safe driving course, in exchange for a reduction in the traffic fines. The Government will consider if a similar program would be suitable for implementation in the ACT.

There needs to remain a strong deterrent mechanism for non-payment of a fine as, ultimately, this also acts as a deterrent to the underlying offence – if there is no consequence to non-payment of a fine, there is by extension no consequence to committing the underlying offence. Noting this, the Government does acknowledge the burden that loss of licence can have on vulnerable members of the community and agrees in principle to explore further alternative mechanisms to incentivise payment.

Recommendation 3

The Committee recommends that the ACT Government explore a system of warning notices for a first offence in the case of minor offences instead of a fine or penalty.

Agreed in Principle

The Committee noted the widespread support for issuing warning notices as an alternative to a fine. Warnings are used discretionarily, taking into consideration factors immediately apparent to the decision-maker at the time of exercising the discretion.

The Committee noted the benefits of issuing a warning to first time offenders and discussed the desirability of a 'process' to issue warnings to first time offenders. The Committee noted that some infringement notices (such as speeding fines and parking fines) were issued automatically.

Formalising the warning system carries undesirable risks in some circumstances. Currently, there is no limit on the number of warnings that a person may be issued and a number of agencies use infringement notices as an escalation point from warnings. For example, ACT Parks and Conservation have an internal policy of issuing warnings as a first step. If a person does not comply with the warning, then consideration will be given to issuing an infringement notice. Again, a person might receive multiple warnings over a period of time without being issued an infringement notice. Formalising this warning system would have an associated expense, would require officers to collect additional information from people who are stopped, and may make it more likely that a person would not receive subsequent warnings.

As noted in ACT Policing's submission, police currently have discretion as to a chosen course of action, including whether to issue a warning, caution, or charge instead of issuing an infringement notice.

Formalising a warning notice system would impinge upon existing processes, cause administrative and operational burden on ACT Policing, and could limit the discretionary options available to police.

Approaches to the use of warning notices are low-contact, adaptive, and responsive, and these features may be lost if the warning system were formalised.

Noting the above, the Government submits that it uses formal warning systems where appropriate. For example, the recent deployment of mobile device detection cameras included a three-month warning period commencing 3 November 2023. Drivers caught using their mobile device by a device detection camera will receive a warning until February 2024, when infringement and demerit points will start being issued.

The Government agrees that warnings may be preferable to infringement notices where the circumstances provide that a warning is appropriate. Although warnings would not be appropriate or feasible for some areas of policy, the implementation of the Amendment Act which will streamline processes and facilitate consistency of data, might assist decision makers to deescalate infringement notices.

Recommendation 4

The Committee recommends that the ACT Government investigate introducing a cap that can be placed on the total number of infringement notices or financial penalties from a single interaction with police, to reduce financial impacts on vulnerable people.

Not agreed

The Committee noted evidence that multiple offences related to a single incident could result in multiple fines, the culmination of which might be disproportionate to the incident.

ACT Police officers have a significant degree of discretion when forming the view that an infringement notice should be issued. This makes the infringement notice system responsive, adaptive, and flexible. The infringement notice system gives officers a 'mid-way point' between issuing a warning and issuing a Court Attendance Notice (CAN).

Once officers have formed the view that an infringement notice should be issued, discretion about the management of that infringement notice is no longer with the officer. It would be inappropriate for police officers to engage in deliberation about which notices to waive in order to come under the cap.

Where a person commits multiple infringement notice offences in a single interaction, police currently have the discretion not to issue an infringement notice and, instead, refer the matter to Court. Courts have a wider range of powers and resources, and appropriate frameworks to consider the context of the offending and the appropriate total punishment.

As a result, introducing a cap on the total number of infringement notices or financial penalties imposed could increase the likelihood of referring matters to Court for resolution instead of issuing infringement notices. This outcome would undermine the policy objective of infringement notices to avoid persons entering the court system and increase the severity of the response to minor offences in these circumstances.

Recommendation 5

The Committee recommends that the ACT Government investigate adopting fines based on a proportion of income, rather than fixed amounts, together with the setting of a maximum fine amount.

Agreed - completed

The Committee noted a range of evidence that fixed fine amounts disproportionately affected people on low incomes. The Justice Reform Initiative noted examples of some European countries adopting a 'day fine' structure where offenders are given fines based on their daily income.

As acknowledged in the Committee's report, there are significant operational barriers to implementing such a system. The Committee noted evidence that countries which implement 'day fines' had administrative structures where the authority imposing the fine has access to income declared for tax purposes. Unlike those countries, the ACT Government does not have access to individual's income data and lacks the legislative power to obtain the information.

The Committee also acknowledged that the ACT Government does not have a routine process for collecting demographic data on recipients of administrative penalties.

Further evidence provided to the Committee noted that taxable incomes might not represent actual incomes, and that not everybody is a recipient of a consistent payslip that reflects a person's annual income.

Not only are there practical difficulties in implementing the policy, it also might not be appropriate for every infringement type. For example, if the day fine approach were adopted for fines arising from a failure to vote, the administrative cost of calculating nearly 24,000 infringement notices would either be prohibitive or would necessarily require the fine to be higher to be budget-neutral.

The Government acknowledges that for a number of offences and in the majority of cases, fines based on a proportion of income may result in a lower administrative penalties in some circumstances. However, having investigated this proposal in preparing this response the ACT Government is not satisfied that it would make the infringement notice system in the ACT more accessible or responsive to the needs of vulnerable people, particularly noting that implementation would likely require the disclosure of significant personal information to the Territory. It is also considered that the cost and resourcing impacts associated with implementing such a policy in the ACT would likely be prohibitive.

Recommendation 6

The Committee recommends that the ACT Government look at whether fines for minor offences could be reduced for people holding concession cards.

Agreed

The Government agrees to consider the proposal for fine reductions for concession card holders.

As the Committee noted the practical difficulties associated with implementing Recommendation 5, it suggested using concession cards as a proxy measure for low incomes. The Committee noted examples of where fees issued by ACT Government were reduced for those who held various types of concession card.

It is noted that people may experience financial stress for a range of reasons, and not all vulnerable people hold concession cards. For example, many low-income students do not have a concession card, and some people may elect not to engage with Centrelink for a variety of reasons despite being on a low income.

In contrast, while the majority of people with a concession card are financially vulnerable, not all concession cards are means-tested, for example the military pensioner concession card issued for injury.

On balance, however, if a person holds a concession card they are likely to be experiencing financial stress. For that reason, infringement notices issued under the *Road Transport (General) Act 1999* already include provisions for holders of the following concession cards:

- A health care card issued under the *Social Security Act 1991* (Cwth);
- A pensioner concession card issued under the *Social Security Act 1991* (Cwth);
- A pensioner concession card issued in relation to a pension under the *Veterans' Entitlements Act 1986* (Cwth) or the *Military Rehabilitation and Compensation Act 2004* (Cwth); and
- A Repatriation Health Card—For All Conditions that evidences a person's eligibility, under the *Veterans' Entitlements Act 1986* (Cwth) or the *Military Rehabilitation and Compensation Act 2004* (Cwth), to be provided with treatment for all injuries or diseases (known as a 'gold card').

Under the *Road Transport (General) Act 1999*, if an application is made for an infringement notice management plan, the decision-maker must approve the application if the applicant holds one of the cards described above. That will allow the person to pay the fine in instalments or discharge the penalty by participating in approved community work or social development program. The same approach will be introduced under the Amendment Act for infringement notices issued under the *Magistrates Court Act 1930*.

The process implemented under the existing traffic and parking scheme, and envisaged by the Amendment Act, relies upon the person making an application for a management plan. Reducing the fine at the point of issue would require significant modifications to systems and processes to confirm if the person held a concession card and would likely be administratively expensive and potentially require the collection of more personal information at the time an infringement notice is issued. In order to implement the Committee's recommendation, the reduction would need to be applied after the infringement notice had been issued, likely requiring a process similar to that which is already applied under legislative schemes referred to above.

Having considered whether fines for minor offences could be reduced for people holding concession cards in preparing this response, the Government also notes that an automatic reduction of the penalty based on the person's concession card might not be appropriate for all penalties. For example, this would likely undermine the policy intent behind issuing a fine for a failure to vote. Given the implementation of the Amendment Act is promoting consistency in the processing of infringement notices and the hardship provisions, more policy work would be needed to establish if a reduction could apply at the point of payment for some infringement notices and not others.

Recommendation 7

The Committee recommends that the ACT Government ensures that:

- a) the process for applying for waivers for fines for minor offences is simplified, and
- b) data are collected on the number of applications, the proportion of applications that are successful and the reasons for this.

Agreed in Principle

The Committee noted the experiences of vulnerable people attempting to access waivers and assistance when issued with an infringement notice. In particular, the Committee drew attention to Access Canberra's website and the lack of consistency across traffic infringement notices and other infringement notices.

The ACT Government agrees that the processes for managing infringement notices should be as simple as possible and that the tools used to facilitate the process should be user-friendly and accessible.

To improve access to information regarding hardship repayments and other programs administered by Access Canberra, a new Access Canberra website was launched in October 2023 that makes it easier for people to find information and engage government services. Search functionality has been improved and information has been rewritten into plain English. The number of pages on the site has been reduced by around 90%, making it easier for people to find the information they need, including in relation to waivers.

The ACT Government conducted extensive user testing to ensure that the new website is easy to use. This included usability and accessibility tests with vision impaired users, as well as real-time testing with Access Canberra contact centre staff members. Users also have the option to provide feedback on each page of the site.

Further facilitating access to waiver options, promoting consistency in the management of infringement notices is one of the intended outcomes of implementing the changes from the Amendment Act. Access Canberra is currently working with JACS to consider improvements to existing Guidelines made under the Road Transport legislation for waivers, withdrawals, applications for WDPs, and requests for extension of time. These improvements are intended to remove barriers to eligibility and improve accessibility which will flow on to the new Guidelines made under the amended *Magistrates Court Act 1930*. By having a consistent legislative framework for the majority of infringement notices, the process for applying for waivers will be simplified. The Government notes that implementing the Amendment Act will require a period of time to settle the processes and systems for the best user experience. Implementation and user-feedback will also identify ways of streamlining processes further.

As part of the implementation of the Amendment Act, options for collecting data have been and continue to be explored. The Government agrees that this data will help inform further improvements to the administrative penalties system, with a view to continuous improvements to facilitate access to, and navigation of the system. As with all data programs, consideration needs to be given to risk management and data protection, along with complexities like interactions between de-centralised fine management systems across ACT Government agencies. These issues will be considered as part of the implementation of

the Amendment Act, and on-going policy consideration in relation to infringement notice management in the ACT into the future.

Recommendation 8

The Committee recommends that the ACT Government ensures infringement notices include information to assist vulnerable people to find the information they need, including alternative options to payment, such as links to the Canberra Community Law webpages.

Agreed and commenced

The Committee noted the need for people issued with an infringement notice to have accessible and clear information that is easy to understand. The Committee noted evidence that people experiencing hardship might not know what their options are and noted experiences of people who found it difficult to find relevant, helpful information.

As discussed above, the Government has launched a redesigned, new and improved Access Canberra website. Access Canberra is the front door for many Canberrans looking to engage and interact with the ACT Government and its many services. This included improvements to navigability and usability. A link to 'Ways to Pay' a fine now appears on the home page of Access Canberra's website, directing people straight to the information they need to access to determine if they can apply for a hardship provision or waiver. As a result, work has already commenced on providing vulnerable people with the information they need.

The implementation of the Amendment Act will create greater consistency in relevant hardship provisions and waivers for the majority of infringement notices issued in the ACT outside of the traffic and parking system to which these options already apply. With greater consistency in the legislative framework, it is easier to provide clear, accessible information to vulnerable people who have been given an infringement notice. Providing this information is part of the implementation that will become available following commencement of the Amendment Act in February 2024.

Infringement notices are issued by administering authorities and, as such, those authorities are largely responsible for the content of infringement notices, consistent with the different legislative requirements for each scheme. As part of the implementation of the Amendment Act, Government agencies are working together to identify opportunities to increase consistency in the information provided so that they are directed to the Access Canberra website for information about the hardship provisions.

Recommendation 9

The Committee recommends that the ACT Government expand the availability of, and improve accessibility to, Work and Development Programs.

Agreed

The Committee noted the high level of support that stakeholders have for the WDPs.

WDPs are currently available under Division 3.2A of the *Road Transport (General) Act 1999* for people who have been issued an infringement notice under roads legislation. Access Canberra administers people entering into WDPs as an alternative to payment of a fine.

The Government notes that with the implementation of the Amendment Act the eligibility to enter a WDP is expanding. The Amendment Act will introduce a new division 3.8.2A into the *Magistrates Court Act 1930*, expanding the availability of, and improving the accessibility to, WDPs. To reduce the operational burden of the implementation, directorates have begun the discussion about how to simplify the application process and make guidelines clearer. Given the size of Canberra's market, there is limited opportunity for the Government to increase the number of WDP providers.

Recommendation 10

The Committee recommends that the ACT Government continue to work with ACT Policing to consider additional hardship options for all infringement notices, modelled off the traffic and parking infringement notice options.

Agreed - Existing Government Policy

The Committee noted the expansion of existing hardship provisions to a range of administrative penalties through the implementation of the Amendment Act.

These new provisions will commence in February 2024. ACT Policing continues to work with the Justice & Community Safety Directorate and other ACT agencies to implement the Amendment Act.

Recommendation 11

The Committee recommends that the ACT Government urgently invests in bail support programs and restorative justice that support people to address underlying issues causing the offending behaviour related to the minor offence and reduce reoffending behaviours.

Agreed - Existing Government Policy

The Committee noted evidence linking bail support with the reduction of reoffending behaviours.

The ACT Government's Justice Reinvestment approach has been detailed and implemented through the Reducing Recidivism 25% by 2025 plan. The plan aims to improve criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.

An initial budget of up to \$133 million was brought together over four years to support the development of programs to reduce the rate of reoffending, and develop effective evaluations to understand the impact of funded initiatives, using data to inform evidence based future decision making on reducing recidivism.

The Reducing Recidivism 25% by 2025 plan includes actions that promote and facilitate successful grants of bail. A pillar of the plan is responding to justice housing needs, noting that many vulnerable people without secure housing are unable to secure bail. A new bail accommodation transition support service will cater for those who would be granted bail by the courts but on the condition that they have secure housing. This is designed to limit the

damaging effect a short to medium (in some cases months) period of incarceration can have on an individual's community connections, including their employment.

The ACT's voluntary Restorative Justice Scheme promotes a voice for people affected by crime alongside the more formal criminal justice system. The Scheme is administered by the Restorative Justice Unit (RJU). Eligible and suitable victims, offenders and their communities of care are supported to communicate either face-to-face or by indirect means, with the help of a trained restorative justice convener. The purpose of this work is to promote victim empowerment in a non adversarial justice process and generate understanding, empathy and reparation for victims of crime.

In 2022-23, the RJU received 135 referrals involving 245 victims, 151 offenders and 321 offences. ACT Policing and ACT Courts remained the strongest providers of restorative justice opportunities for victims of crime and those responsible.

During this period, the RJU convened 47 conferences involving 59 victims and 53 offenders. Referrals did not proceed to conference most commonly because either victim or offender could not be contacted, discontinued contact or declined to participate. This is largely consistent with previous years.

In November 2018, the Government implemented the final phase of the Restorative Justice Scheme, allowing for referrals for family violence and sexual violence. In 2022 the RJU engaged the Australian Institute of Criminology to conduct an independent evaluation of the operation of this final phase of the Scheme. The evaluation included qualitative and quantitative data collection methods and analysis, with a final report delivered in November 2023.

Further discussion of programs to address the specific needs of Aboriginal and Torres Strait Islander people is in the response to Recommendation 12.

Recommendation 12

The Committee recommends that the ACT Government provides secure and ongoing funding for the Ngunnambai Bail Support Program.

Noted

The Committee noted stakeholder support for the Ngunnambai Bail Support Program run by the Aboriginal Legal Service (NSW/ACT). Ngunnambai (meaning "perceive" in the Ngunnawal language) is the ACT's second Justice Reinvestment trial. The trial is designed to reduce the number of Aboriginal and Torres Strait Islander people on remand and their time spent on remand. The trial is available to Aboriginal and Torres Strait Islander adults and young people on remand, applying for bail, and people who require assistance to comply with bail conditions.

The Ngunnambai trial is run by two Ngunnambai Support Officers who attend the Magistrates Court to provide a range of supports to Aboriginal or Torres Strait Islander people applying for or who have been granted bail. The Support Officers work together with clients and legal representatives to develop a Bail Plan which identifies immediate needs and set goals that support compliance with their bail conditions. These goals are likely to be about: housing, health, employment, education, or court appointed conditions. Each Bail Plan is unique to that person and is developed with the support of a Ngunnambai Support Officer. An

Aboriginal Trial Coordinator has also been engaged by JACS to support the trial process and its evaluation.

To ensure that the program continues to be fit-for-purpose, consideration of the next round of funding for Ngurrumbai will be facilitated through the ACT Government's Commissioning.

Commissioning is transforming how the Government partners to deliver services and achieve positive outcomes for the Canberra community. It will also deliver and evolve the priorities, as initially agreed by government and the sector. It centres collaborative relationships between government and non-government sectors to make decisions about the design, invest in, and deliver culturally safe services that foster truth-telling, healing, connection, and positive outcomes for the Aboriginal and Torres Strait Islander community of Canberra.

The ACT Government supports a number of programs to address the specific needs of Aboriginal and Torres Strait Islander people in the justice system. Along with Ngurrumbai, the following programs are currently progressing through the Commissioning process:

- **Yarrabi Bamirr (Winnunga, Yeddung Mura and Clybucca Dreaming)** provides a family-centric model of support for First Nations families to reduce or prevent contact with the justice system and consequently, improve life outcomes.
- **Throughcare (Yeddung Mura)** is a client-centred program designed to enable First Nations clients to succeed as they transition from prison to living back in the community. The program works with the ACT Corrective Services Throughcare Unit to provide individualised and intensive case management and trauma informed support. Throughcare provides support such as mobile phones, medicine, identification documents, and assistance with services such as access to housing, Centrelink, and other providers and programs.
- **Empowering Yarning Circles (Yeddung Mura)** is a series of yarning circles that focus on helping ex-detainees to stay in the community and rebuild their lives. The program supports re-establishing links to community and culture, restoring relationships with family, friends and peers, and supporting and enabling clients to manage their own lives.
- **Front Up (ALS)** is provided by the Aboriginal Legal Service NSW/ACT to support First Nations people who have an outstanding warrant(s) or have breached bail or a community-based sentence. The program helps them to present to court and negotiate to have the matter resolved, where possible, without a period in custody.
- **Galambany Circle Sentencing Court Support (Yeddung Mura)** provides support to people appearing before the Galambany Circle Sentencing Court. This Court gives eligible First Nations adults (who have committed and plead guilty to an offence) a culturally relevant sentencing option, in consultation with local Elders. The program also offers transport to and from court as well as to any recommended or court-appointed appointments or programs.
- **Bail extension:** following a successful trial in early 2022, funding has been committed for Galambany bail court to operate once a week for First Nations people who are not granted bail on first appearance. If refused bail in the general bail list, defendants will be referred to the Ngurrumbai Bail Support program with

ALS to provide support and legal advice to seek bail through the Galambany Court. This will enable First Nations defendants, whether pleading guilty or not guilty, to access culturally appropriate services for bail support and management.

Recommendation 13

The Committee recommends that the ACT Government improve Aboriginal and Torres Strait Islander access to funded driver licensing programs as Aboriginal and Torres Strait Islander people continue to be disproportionately disadvantaged in being able to meet the requirements to obtain a drivers licence.

Agreed in Principle

The ACT Government acknowledges that obtaining a drivers licence is an important step in accessing health services, employment and education, as well as maintaining connection to family, friends, and the broader community. The Government acknowledges also that learning to drive, and to do so responsibly and safely, can be a time consuming, costly, and challenging stage of life for many people, especially those in vulnerable or disadvantaged communities.

Reforms to the ACT's driving licensing system for learner and provisional drivers commenced on 1 January 2020 and introduced minimum required driving hours to be completed by a learner driver before being eligible for a provisional licence. Learner drivers also have the option of completing other courses such as the *Safer Driver Course* and [Vulnerable Road User Program](#) designed to develop safe driving behaviours and increase awareness of and safety for sharing the road with vulnerable road users.

The time and financial burden of these steps to becoming a safe and licenced driver may be an obstacle for some members of our community. Knowing this, the ACT Government already fund relevant programs and initiatives through the Road Safety Fund Community Grants program, including the:

- Salvation Army which was awarded a contract in 2023 to provide disadvantaged and Aboriginal and Torres Strait Islander youth, with a mentor program through the licensing process known as the Learner Driver Mentor Drive for Life. This includes access to 10 hours of lessons with an ACT Accredited Driving Instructor, learner driver training and education programs, and driving mentors that can supervise the learner drivers to gain the practice and achieve the required driving hours that is needed to obtain a provisional licence; and
- Child and Youth Protection Services Branch (CYPS) within the Community Services Directorate has provided funding to develop a behaviour change intervention for young driving offenders. This initiative aims to support vulnerable young people in either or both a youth justice and/or care and protection context. Specifically, young people who are involved with CYPS at the relevant time period for intervention delivery, who are assessed as having risks and needs related to unsafe driving behaviour and as such are likely to benefit from the intervention/s.
- Each year, the Road Safety Fund supports the research and/or development of new programs and initiatives that enhance road safety. In 2023 a partnership between

PCYC and ACT Policing is being funded to develop a dangerous driving intervention program specifically for at-risk youth exhibiting dangerous driving behaviours.

The ACT Government acknowledges the specific needs that First Nations people may have when obtaining a drivers licence and that the current suite of programs could potentially be expanded and tailored to achieve greater benefit for those members of our community. The expansion of existing, or development of new, licencing support programs would require not only additional funding but also requisite capacity within relevant provider organisations. The Government agrees in principle to this recommendation and will explore opportunities to improve Aboriginal and Torres Strait Islander people's access to funded driver licensing programs further.

Conclusion

The ACT Government remains committed to ensuring that the ACT's infringement notices schemes support equity and address hardship, while supporting effective enforcement.

The commencement of the *Magistrates Court (Infringement Notices) Amendment Act 2020* will introduce options which mirror the hardship options available for parking and traffic offences. The *Drugs of Dependence (Personal Use) Amendment Act 2022* commenced in October 2023 and further innovated on ways to reduce hardship, including provisions which a person issued with a simple drug offence notice could choose to attend an assessment and harm reduction session instead of paying the \$100 penalty.

Administrative penalties are one of a range of tools available to deter and address minor offending. As detailed in the above response, the ACT Government continues to improve the administrative penalty framework to achieve better outcomes for the whole community.