LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH AND COMMUNITY WELLBEING

(Reference: Inquiry into Public Health Amendment Bill 2021 (No 2))

Members:

MR J DAVIS (Chair)
MR J MILLIGAN (Deputy Chair)
MR M PETTERSSON

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 25 JANUARY 2022

Secretary to the committee:
Dr D Monk (Ph: 620 50129)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

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Amended 20 May 2013

The committee met at 2.31 pm.

WATCHIRS, DR HELEN, President and Human Rights Commissioner, ACT Human Rights Commission
TOOHEY, MS KAREN, Discrimination, Health Services, Disability and Community Services Commissioner, ACT Human Rights Commission

THE CHAIR: Good afternoon, guys, gals and non-binary pals, and welcome to the first public hearing of the health committee's inquiry into the Public Health Amendment Bill 2021 (No 2).

To start with, the committee wishes to acknowledge the traditional custodians of the land that we are meeting on, the Ngunnawal people. The committee wishes to acknowledge and respect their continuing culture and the contribution they make to life in this city and in this region. We would also like to acknowledge and welcome any other Aboriginal or Torres Strait Islander people who may be attending today.

Today's witnesses will include the Minister for Disability and the ACT Human Rights Commission. One housekeeping matter that I wish to raise is that, as we are conducting this public hearing by video link, there is every chance technical issues may arise. If this occurs, please be patient and our technical officers will attend to these matters as quickly as possible.

Please be aware that today's proceedings are being recorded. They will be transcribed and published in the Assembly's *Hansard*. These proceedings are also being broadcast and webstreamed live. To those appearing before the committee today, can I remind you that if you take a question on notice it would be useful if you could please state clearly, "I will take that as a question on notice." This helps our committee and secretary to confirm questions taken on notice from the transcript.

The first appearances at today's committee will be Dr Helen Watchirs, the President and Human Rights Commissioner, and Ms Karen Toohey, the Discrimination, Health Services, Disability and Community Services Commissioner. Welcome to both of you. Please be aware that today's proceedings are covered by parliamentary privilege, which provides protection to witnesses but it also obliges them to tell the truth. The provision of false or misleading evidence is a serious matter, and all participants today are reminded of this. Before we begin, if you would not mind confirming that you have read and understood the privilege statement that the secretary has sent?

Dr Watchirs: Yes, we have.

Ms Toohey: Yes, I have.

THE CHAIR: Wonderful; thank you. Would you like to make an opening statement?

Dr Watchirs: Yes, I would.

THE CHAIR: Take it away.

Dr Watchirs: I would like to thank the Assembly for giving us the opportunity to

give evidence to the committee today and make a brief statement. It is an important bill and it is important that we get it right. We were consulted for the bill early on and we strongly support its objectives to have fit-for-purpose legislation for the ongoing management of COVID.

The commission has long held concerns about the current framework lacking the appropriate checks and balances to ensure that powers are properly exercised. We are therefore pleased that the government has listened to our requests for better human rights protections and greater transparency and accountability in its response to COVID.

There are five, at least, safeguards we have called for that are in the legislation. Firstly, greater control and oversight by the Assembly of the COVID response, such as management, declarations and vaccine directions being subject to disallowance, as well as this scrutiny committee being able to report to the Assembly on any human rights issues raised by directions by the minister or the Chief Health Officer. Secondly, requiring human rights justifications for directions, including vaccination mandates, to be published, and requiring prior consultation with the Human Rights Commissioner. There are six provisions in the bill that require consultation. Thirdly, an objects clause to show that any limits on human rights need to be demonstrably justifiable in accordance with section 28 of the act. Fourthly, creating a right of independent merits review for segregation and isolation orders. Fifthly, a sunset clause of 18 months. There is also an exemption for leave from segregation or isolation for urgent medical care or access to domestic violence services.

We consider the bill a significant improvement on the current legislative framework, but there are still areas where there could be further improvements to generally meet the needs of all Canberrans. The kind of strengthening we recommend is safeguards. We are concerned that there are some gaps in relation to real-time oversight for implementing the measures, particularly where they apply to vulnerable populations. Real-time oversight is critical to ensure that actions that are taken pursuant to COVID directions are, in fact, consistent with human rights in practice.

The kinds of safeguards we have called for in our submission are four recommendations. There are several others, but these are the main four. Firstly, requiring an oversight entity to be notified when a segregation or isolation order direction is issued that involves the detention of an individual; for example, the Public Advocate will be notified. Secondly, safeguarding the ability of oversight agencies to conduct onsite visits to places of detention that have been closed. Thirdly, minimum entitlements and supports provided to people subject to segregation or isolation orders in closed environments, such as access to open air, physical exercise and contact with family. And fourthly, review of vaccination directions. There is a fifth one—CHO directions to an individual—where we have recommended a number of safeguards. I mentioned notification. Another would be information on rights, compensation and possibly reporting.

We are very happy that there is a human rights approach in this bill, but those further safeguards are recommended on the use and exercise of the powers so that they are effective, independent, and real-time oversight and monitoring can occur. Thank you for this opportunity to appear before the committee.

THE CHAIR: Thank you very much, Commissioner. We will move to questions now and, as chair, I will start us off. This is a pretty specific one. A number of constituents have raised with me their belief about the human rights compatibility of this legislation. You are the Human Rights Commissioner so I will trust your considered opinion. What specifically do you think this bill should change, if anything at all, to further strengthen and improve on human rights?

Dr Watchirs: Those four matters I mentioned about an oversight entity to be notified when an individual is segregated or isolated; allowing oversight agencies to go in person to places such as the AMC, Bimberi, Dhulwa or the Adult Mental Health Unit. They are not currently, but during lockdowns, they have been closed to oversight agencies. The minimum entitlements for people in segregation or isolation in closed environments is also important, as is the right of review of vaccination directions. They are the big ones.

THE CHAIR: That is great. You did flag in your opening statement that you have been working closely with the government, or that the government has been consulting closely with you and your office in the drafting of this legislation. Is the advice that you have just given the committee advice that you have also given the government prior to today?

Dr Watchirs: Some of it, but some has been on reflection and looking at the Victorian bill. The initial bill was not good and there were some lessons learned from the Victorian experience that we were able to draw on.

THE CHAIR: That is good to hear. Thank you very much.

MR PETTERSSON: I have a quick supplementary on that, Chair.

One of the recurring themes in the submissions that we have received is that many of our constituents believe that their human rights are being infringed upon in that they believe their human rights protect them from medical treatment without free consent. Do you share these concerns?

Dr Watchirs: Certainly vaccination is a limitation on human rights. There is nothing in the bill that people be held down and given vaccinations, but in the vaccination directions that will be made under this bill there are consequences for not being vaccinated. Among the concerns we have had in the past is that it should be in primary legislation. That is currently not the case. This bill ensures that it is primary legislation and there will be directions, but the heavy lifting will be in relation to the guidelines made under those directions, and there is an obligation to consult the Human Rights Commissioner in relation to that.

The kinds of limitations on human rights are equality and non-discrimination, medical treatment without consent, freedom of thought, religion and belief, privacy and the right to work, so there definitely are limits by having vaccination directions. They are limited in the bill—just certain features, things as in the workplace, a particular activity or a particular place such as a nursing home or hospital. We do have concerns, but the biggest concern in relation to vaccination directions is that there be a review.

Ms Toohey: Obviously we have been contacted—particularly over the lockdowns and since the mandates came in—by a number of people raising those concerns. We have endeavoured to address that in the submission in terms of the balancing of people's rights. As Dr Watchirs has indicated, the mandates, particularly in the ACT, I think, have been very carefully considered, and the Chief Health Officer has gone on the public record about the considerations that she has made in terms of putting those mandates in place—particularly in areas like education, where it related very specifically to cohorts that were or were not able to be vaccinated at the particular point in time. As Dr Watchirs has indicated, the mandates do not require people to be vaccinated, in that it is not a compulsion on them; it is a decision about whether they would agree to that to be able to comply with particularly workplace settings.

Again, in the ACT we have seen the government take a very considered approach around not requiring vaccine evidence, for example, to access particular public areas of public life, unlike some of our colleagues interstate. Again, as Dr Watchirs has indicated, we were involved in some of those discussions. I think we have been satisfied that a lot of consideration has been given by government to the consequences of some of that decision-making, particularly a decision made 12 months ago about putting in place the requirement for vaccine passports, for example. What does that look like now when we now enter boosters and we now have options for younger people—those sorts of things. There was a very clear consideration given to not excluding Canberrans from being able to access services in the ACT.

Dr Watchirs: Some of the other features in our submission show the safeguards for vaccination directions, and they are that there is disallowance by the Legislative Assembly and that there is preservation of access to essential goods and services such as medical supplies and groceries. In addition to review rights, we recommend that there should be scrutiny by the Legislative Assembly, not just the disallowance, and also to regulate third parties who may be implementing vaccine passports in the private sector. We think that there is a positive obligation on government to regulate that so it is not a free-for-all.

MR MILLIGAN: Thank you for appearing today. I would like to get a little bit more information and clarification on your concern with the no review rights. What would that look like if this was within the bill and what are a couple of examples of where this would actually come into practice?

Ms Toohey: As you would be aware, there is provision in the bill for, in some circumstances, internal reviews of some directions, that being by somebody within particularly the ACT Health Directorate, and also external review. The concern that we have is that that does not extend at the moment to, for example, the ability for someone to seek a review of a direction around individual detention. One of the things that have become apparent is that we do not know how many of those directions related to individuals were issued, for example, during the last period of lockdown. We have drawn on experiences that were brought to our attention of some examples in that space. I guess it has raised for us the particular concern that, particularly when people's rights are being infringed—and we agree that that would be in the interests of the broader community, protecting the broader community's health—there very definitely needs to be the option for review rights, both internal and external.

One of the issues that we identified with the internal review—and I think it has been identified in some of the other submissions—is that the decision-maker, and in our case, in a very small jurisdiction, is often a very senior person. There is a limited number of people who will be able to review that decision who are independent of that person. While we have not been prescriptive in the submission about what that should look like, we have engaged in a number of discussions, again with ACT Health, about the need for review rights to be extended.

Aged care, I think, is another area where we have seen—and certainly in my experience dealing with complaints about accommodation status, discrimination on the grounds of age and older persons' complaints—that, while the Chief Health Officer has issued a broad direction, it has been left very much to the providers, particularly recently, around the decision-making in that space.

While there has been some very good work, for example, by Council on the Ageing in issuing guidance on what visitation rights should look like and in what circumstances aged-care facilities should be locked down, for example, or when visitors should be prevented from going in or people should be prevented from leaving a facility, it is very much left to the provider. We have seen numerous examples, particularly recently, of there being very inconsistent approaches having a very profound impact on individuals.

For example, a matter that we got just before Christmas was of an older person who is vaccinated in an aged-care facility, where the workers are vaccinated, going to see her family on Christmas Day, who are all vaccinated, and then the proposition was that on return to the facility she would have to quarantine in isolation for three days waiting on a PCR result, assuming the PCR result, as we know at that point, would come back in three days. The visitors code provided a requirement for a RAT test. The difference between 15 minutes and three to six days is quite significant. There is nowhere to go with that. The aged care quality commission has been, I think, very much of the view that the providers were in a very good position to make those decisions, which we completely agree with, but equally there is a lot of guidance for the providers and we are not seeing adherence to that. I think there are options in that space in particular, as an example, for there to be an extension of the proposal in the act for an extension of review rights.

The important thing that we have proposed with respect to individual detention—and the effect of a quarantine or isolation order is detention—is real-time monitoring of that. We are suggesting that because we have seen, particularly in a number of matters that were brought to our attention, that the individuals are not being given the option of access to an advocate, are not being given the option of access to legal advice and are not being told about what review options there might be. We see in other settings, for example in mental health, real-time monitoring of things like seclusion and the use of seclusion and restraint. What we are suggesting is that, even though these incidents might be rare—again, we do not know, because we have not seen any public data on how many individual directions were issued—we think that would be another way of ensuring the protection of the rights of people in Canberra.

Dr Watchirs: Can I also highlight that these directions to individuals by the Chief

Health Officer are not notifiable. There is no obligation to consult the Human Rights Commissioner and there is no requirement to report to the minister to justify them being enforced. That is why we recommended the notification of oversight, like the Public Advocate, telling people what their rights are, compensation, even using the Victorian model of insufficient grounds for the direction, and I think reporting. We have not put that in the submission, but I think it would be useful to know how many of these individual orders there are because of the lack of oversight currently.

MR MILLIGAN: You just mentioned compensation briefly. That seems to be a bit of a theme in a lot of the submissions, particularly about loss of income. If a health direction states that you need to be vaccinated to work in certain industries and we have individuals that are not vaccinated and cannot work in there and that means the potential loss of income and the potential loss of employment, what safeguards could be put in place for that, or what type of compensation possibly should be offered to those individuals?

Dr Watchirs: There is a federal compensation scheme for adverse reactions to vaccinations. Earlier legislation took away all compensation provisions under the Public Health Act. Of course, you would have access to other mechanisms, such as the Human Rights Act or medical negligence in certain cases—civil wrongs.

Ms Toohey: In some of those examples that you have given, obviously Fair Work has been quite involved in decisions around mandates and employment. In our experience, again, for some of the people who were subject to rolling detention orders because they were in a particular accommodation setting it did have a very profound impact upon their income and on their ability to maintain a job in some instances. Certainly, we would see that there might be room for that. I think as well that some of the matters that we have dealt with, where there have been adverse outcomes for people's health because of the nature of the intervention that has occurred, might also be examples where compensation of some description might be made available.

MR PETTERSSON: In your submission you say that the bill should include the minimum entitlements and supports that must be provided to individuals subject to quarantine and isolation directions. Can you tell the committee why you would like that included?

Dr Watchirs: It came up with the lockdown here in relation to some public accommodation and supported accommodation where we thought people should have access to open air, exercise and contact with their family, because that was missing. You would be aware of the very famous lockdown of the public housing towers in Victoria and the Ombudsman's review of that and some of the recommendations which the government did not pick up in their bill. We think that is a gap and we could pick that up in the ACT and lead the way in terms of having best practice measures.

MR PETTERSSON: Can you tell the committee where your fact sheet draws those entitlements from?

Ms Toohey: We did put out a fact sheet. That was based in part on minimum requirements for people in detention and in part on some of the good work done in

Victoria, as Dr Watchirs has mentioned, by the Ombudsman and the Victorian human rights commission down there. We also took into account some of the various specific concerns that were being raised with us. As you would be aware from some of the media reports at the time about delays in access to food and difficulties accessing medication in some circumstances, we saw people suddenly being isolated without access to medications that they might often access, not necessarily from the chemist. That was requiring those people, effectively, to withdraw when they were not expecting to be undertaking that process.

Some of the other things that came up that are very practical were phones. Most people, as we know these days, have a mobile phone. We had calls from people using other people's phones because no-one has a landline these days. So it is about access to telecommunications and access to outdoor space, as Dr Watchirs has suggested. We certainly drew on a number of sources of information but, again, trying to respond directly to the circumstances that we saw arising in matters brought to our attention here in Canberra.

Dr Watchirs: Can I also draw your attention to the minimum requirements of detention. As of Friday, the optional protocol against torture applies in Australia. We have declared what the preventative mechanism is in the ACT, and that is the Human Rights Commission, the Ombudsman and the inspector for corrective services.

MR PETTERSSON: Thank you.

THE CHAIR: My question is a bit of a thorny one. I have received representations from some constituents, who might be a bit sceptical about politicians and the motivations of politicians, who have received some quite salacious commentary about this legislation from some questionable sources before getting in touch with me. Your office exists independently of the Assembly and of the executive. Your office exists purely to provide advice on human rights and the protection of human rights. What would you say to Canberrans who are concerned by some of the things they have seen or heard about this legislation as it pertains to human rights? What advice or protections would you give?

Dr Watchirs: I know our submission is very technical, but certainly that would be one source of information that people could look at. Our website talks about COVID and the limits on human rights and the need to be reasonable and proportionate, and the fact that we have gone to great lengths to set out what is reasonable and proportionate in the current bill and how it could be improved. I think we would ask the public to rely on our advice.

The Law Society has also given fairly positive support for the bill. I think the mechanism is the Legislative Assembly having this committee inquiry. Having disallowance of the directions and declarations in the future, I think, is very powerful. We cannot keep going on with emergency legislation. This is a plan for the future where COVID is the new normal and possibly may be endemic. I think we have learned the lessons from Victoria. That bill had a number of problems that this bill does not have. It is a major improvement not only on the current situation in the ACT but also on the Victorian bill.

Ms Toohey: Just briefly, as the person who manages a lot of the intake calls to the Human Rights Commission, I would suggest that a number of those constituents have also been in contact with us. Part of the discussion we have had with people is that some of the concerns that they are raising about this bill are actually in the bill to address concerns about what has been happening under the Public Health Act. So instead of having an act that was designed to do one thing, and we have been using it to manage an emergency, we are now looking at having legislation very specifically designed to enable our community to have visibility and transparency of government decision-making over the management of COVID.

We have certainly had constructive discussions in those cases. I think that has been where there has been some misunderstanding that this bill is not a brand new thing that is landing. It has emerged from two years of work that the government has done on COVID, and with an understanding of what are the things that we actually need to make sure that we have got legislation in place and appropriate scrutiny in place so that we are not doing things on the run. To some extent, with the greatest of respect to my colleagues in the Health Directorate and the CHO's office, who have done an absolutely fantastic job, this legislation actually provides much more transparency for the community about how those decisions are being made and what the impact of them should be, and also what their rights are.

Dr Watchirs: It is really important in relation to these experiences of complaints that Ms Toohey handles that we know what is happening on the ground, because there is no other way of finding that out, apart from the media. In relation to that example of someone refused access to a nursing home because their child was unvaccinated, the direction was changed because of that feedback. Currently there is not that restriction, but there are unintended consequences. Of course, we are human and we cannot anticipate all future consequences, so that is why we have the safeguards to have this oversight of individual cases and the general directions. I think the community may be reassured by what is in the guidelines. The devil will be in the detail, but it is that transparency and accountability which in our view has been lacking in the past because of the emergency situation which will be alleviated by the safeguards in the bill.

THE CHAIR: I would like to thank you both, on behalf of the committee, for appearing and giving us your evidence, as well as your considered submission. It will assist the committee in its deliberations. The secretary will provide you with a copy of the proof transcript of today's hearing when it is available to check for accuracy. Certainly, if there are any questions taken on notice or any context for questions answered that you wish to provide the committee, please liaise with the secretary to get that information through.

Short suspension.

DAVIDSON, MS EMMA, Assistant Minister for Seniors, Veterans, Families and Community Services, Minister for Disability, Minister for Justice Health and Minister for Mental Health)

THE CHAIR: Welcome back to the Standing Committee on Health and Community Wellbeing hearing into the Public Health Amendment Bill 2021 (No 2). Minister, please be aware that today's proceedings are covered by parliamentary privilege, which provides protection to witnesses but also obliges them to tell the truth. The provision of false or misleading evidence is a serious matter and all participants today are reminded of this. Can you please start by confirming that you have read and understood the privilege statement that the secretary has sent to you?

Ms Davidson: Yes, I have.

THE CHAIR: Thank you. Do you wish to provide an opening statement?

Ms Davidson: No. I am happy to get straight into questions, if you like.

THE CHAIR: Tremendous. Minister, you have managed this government's response to the COVID-19 pandemic as it pertains to some of our community's most vulnerable and marginalised people—people with a disability, senior citizens, young people in the justice system and immunocompromised people—as well as overseeing the policy response to the social recovery. In your opinion, how will the bill in its current form protect the health and safety of those people?

Ms Davidson: I think it is really important to acknowledge that we have had to shift very quickly from an objective of trying to reach COVID zero to an objective of living with some level of COVID in the community but protecting those people who are most at risk and ensuring that our health system can continue to meet community needs. We know that there are some health conditions that are more likely to result in a greater health risk from COVID. That means that, while most of us are able to go back to work or school or our usual community activities, there are people who are experiencing a kind of hidden lockdown. These are people with disability, including mental health conditions, older people, carers, people who are immunocompromised, but also families with new babies or who are pregnant. These are all people who are having to stay in isolation and it is actually a lot of people who are still impacted in this way.

We have 80,000 people in this city with a disability, 50,000 Canberrans who are 65 years or older, around 50,000 carers, and there are around 6,000 births each year. This bill is providing the legal framework for us to move quickly in an emergency and to protect those people who are still at really high risk. For example, that might include changing the way that we use PPE, if there is a new variant, with new transmission risks, or it might include changes to the way that we deliver services to people who are at risk in a particular environment like in aged care, in disability care, in our prison system or in health services.

It is also really important to note that RATs are not the silver bullet for this virus. Preventing transmission is important; it is not just testing to find out who has already got it. This is why we still have safety measures like washing hands, wearing masks

and staying 1.5 metres apart. Those kinds of public health regulations are really important and helpful in reducing community transmission. I do not know if that helps answer some parts of your question?

THE CHAIR: It does, Minister, but, like so many good answers, it creates more questions. I have a follow-up for you. You have raised the hidden lockdown. I think it would be challenging for a lot of people to hear that there are people in our community making the choice to disconnect from their community and stay at home. Doing all of this to protect these at-risk people from COVID seems pointless if they are sick from losing a roof over their head, not being able to put food on the table or not being able to afford their other health care needs. Can you speak to what the government is doing about those risks?

Ms Davidson: I can. We have had a lot of community engagement to work with organisations and care providers who can help us understand the impact on those who are most at risk. I had an NGO webinar that I was at earlier today. I have also done these with disability and seniors. We have done webinars and roundtables. We have worked with our community sector partners to provide them with additional resources to get information out to people who are at risk about the changes to testing, isolation, quarantine and the supports that are available to people, including things like the Canberra relief network and the community food relief services to literally get food on the table.

It is about making sure that there is support for access to PPE for aged-care and disability-care settings, and also about getting rapid antigen tests supplied for disability support workers who go into people's homes and are not covered by the commonwealth's commitment for supported independent living. A lot of people who are at home have disability support workers come in and also aged-care workers who come into their home and provide essential services.

We are also making sure that NGOs who are providing essential services, including domestic and family violence and homelessness, will be able to get their staff back to work faster if they have been in quarantine through access to rapid antigen tests supplied by the ACT government, so that they are not competing on the private market.

We also have a whole range of grant funding programs that can help those community organisations to support people who are most at risk. That includes a technology upgrade fund which is supporting more NGOs to work effectively in what is now largely a digital world, such as upgrades to their hardware or software, getting their staff trained and providing equipment to people who are at risk of digital exclusion. Those grants are open until 14 February.

We have also got funding for seniors and veterans community groups, with a focus on responding to needs from the pandemic—those grants close on 1 February—and disability inclusion grants, which includes funding for organisations to make their online services more accessible for people who are in isolation at home. Those grants also close on 14 February.

MR PETTERSSON: I have a supplementary on that. Minister, I have had people

with disabilities make representations to me that we are not doing enough to protect disabled people in the community. Do you share any of those concerns?

Ms Davidson: We are always very keen to hear feedback from people about where exactly they are feeling the risks are coming from so we can then work with the community on how we can reduce those risks. The kind of feedback that I have been hearing a lot of has been about getting access to PPE. The national medical stockpile that the commonwealth operates is not always easy for them to access. Having the Office for Disability doing such a fantastic job working with the sector has meant that there are organisations that have been able to get access to things that they need to help keep people with disability safe while they are still able to access essential services. It is also about making sure that the community understands the importance of those public health and safety measures like wearing masks indoors, staying 1.5 metres apart, not going to large gatherings if you can help it, and how that impacts on reducing community transmission and protects those who are most at risk.

MR PETTERSSON: Thanks.

MR MILLIGAN: Thank you, Minister, for appearing today. I note that failing to comply with the face mask direction due to cognitive impairment or disability is considered to be a reasonable excuse, as stated in the overview of the bill, but there is no mention of this within the bill itself. Why is that?

Ms Davidson: That is probably a good question for the Attorney-General or the health minister. But certainly, in terms of mask wearing and who can get an exemption from it, the fundamental principle we need to think about is whether everyone in our community is doing the best that they can to try and reduce community transmission—and trying to be kind to each other and understand that you might be looking at someone and not seeing a visible disability, but they might actually need to not wear a mask in order to communicate clearly or breathe properly, and you can't always tell that just from looking at the person.

MR MILLIGAN: I completely agree. I guess the question is: what does someone with a disability such as cognitive impairment have to do to prove that they have an exemption?

Ms Davidson: It is not actually about proving that you have an exemption. When these public health regulation orders are made, we do not need to write the detail into this public health bill about how that exemption will work. We can simply make a public health order that outlines who this applies to and who is exempt from it.

The key then is making sure that that is really clearly communicated with the Canberra community. That is why we are working with our NGO partners who work with the disability community, to make sure that they understand any changes that have happened recently around health and safety measures and also around testing, quarantine and isolation.

MR MILLIGAN: What about someone with a disability, though, if it comes to a situation where they may be required to wear a mask or be double vaccinated but may not be able to communicate very clearly or may not know exactly what the health

directions are? What happens in that scenario, when they are denied entry or not allowed into anywhere? What happens then?

Ms Davidson: I think this is why it is so important for the entire community to understand what these rules and regulations are, so that it is not up to people with disability to have to be constantly advocating for their human rights and so that people who are operating a venue or running a retail premises or something like that understand how the public health regulations work.

Our ACT Health communications team have done a really amazing job of providing lots of information about how these things work, as well as FAQ documents and things like that, for businesses. Making sure that that information gets out to each of those organisations so that they understand how it all works is really important so that people who are experiencing that hidden lockdown that I was talking about before do not end up being even more isolated than they otherwise would have to be.

MR MILLIGAN: With the FAQ for businesses and whatnot, is that voluntarily given to them? Do they have to source that information or will the government provide that for all businesses throughout the ACT?

Ms Davidson: The ACT government have done a really good job of putting together FAQs and providing information on covid19.act.gov.au. Minister Cheyne, I am sure, is doing a fantastic job of staying engaged with the business community to make sure that that information gets out there as well.

MR MILLIGAN: Lastly, what supports are currently in place or going to be put into place to support those people living with a disability?

Ms Davidson: Something really important that I have only just started talking to people about today is making sure that people with disability who have services coming into their home can access rapid antigen tests. The commonwealth was only willing to provide supply of those tests for people in supported independent living, which is actually just a subset of the total number of people who are receiving NDIS support services.

We also have a whole lot of people who are receiving aged-care services in the home who are not in residential aged care and do not have access to whatever the commonwealth is planning for residential aged care access to rapid antigen tests. We also have a whole lot of NGOs that provide essential services like homelessness support and domestic and family violence support who need access to those tests to get their staff out of quarantine and back to work and supporting people who need it.

The ACT government is stepping up and making sure that those organisations have access to the tests, not by saying, "We will pay for them if you can find them on the private market," when there are absolutely none on the shelf to buy, but by saying, "We are going to make sure that you actually get supply of the tests that you need so that you can spend your time delivering services to people safely and not making 27 million phone calls to try and find tests that are just not on the shelves anywhere."

MR MILLIGAN: Thank you, Minister.

THE CHAIR: Minister, I probably only have one more, if you do not mind. In my first question I kind of gave you a resume of all the things you are doing in the government to help support the community through the COVID pandemic. But one that people might not know about and that I am really interested in is your policy work around the social recovery.

We had it put to us in the proceedings just beforehand, by the Human Rights Commissioner, that this is part of a legislative change that accepts that this situation might stay with us for some time and that we cannot continue to rely on the emergency powers. So I am interested to hear, through you, that the government has already been turning its mind to what rebuilding our community socially from the back end of this pandemic might look like. Can you talk to us about some of the work that is happening in that space?

Ms Davidson: Yes. That is really important work. It is important to know that there will be long-term impacts of what we are experiencing, both through the public health impacts of COVID-19 and the mental wellbeing impacts that it is having on people. Young people in particular have had a really hard time, but there are also a lot of older people experiencing isolation who have been having a hard time with their mental wellbeing as well.

And then there is the economic impact. We know that that has been disproportionately felt by young people, by women who already had casualised, low-paid jobs in hospitality, retail, tourism and the arts and things like that. There is the additional burden being put on people to provide more unpaid care, trying to balance supporting kids studying at home while they are working from home and helping out elderly or disabled family members. It is really a lot and there are going to be some different impacts for people in different parts of the community.

So when we are talking about community recovery from COVID, that is not just about the economic recovery; it is also about rebuilding that social fabric of our city and making sure that people are able to be reconnected and supported in acknowledging the grief and loss that we are not going to be able to live the way that we were before. We are going to be living in a new way, and whatever plans you had for the next couple of years might have to change quite a lot from what you had been intending. It is about acknowledging that if we are talking about creating a post-pandemic Canberra community, we could actually take this opportunity to do something that is better than what we had before. You know, we could be more inclusive and more supportive of each other and really rebuild that social fabric that makes Canberra what it is.

THE CHAIR: Thank you, Minister.

MR MILLIGAN: Going back to people living with cognitive impairment, if they fail to have a booster or a vaccination because they have not had access and it has been an oversight by them, does the government have a strategy in place to ensure that all those that require a booster or a vaccination do have one? Is there a communication campaign or a strategy that the government is putting together to help those people with disabilities such as cognitive impairment to ensure that they are vaccinated and

up to date?

Ms Davidson: Yes, absolutely. Vaccination is a really important part of keeping our whole community safe and reducing community transmission. The access and inclusion clinic that has been running at the Weston walk-in centre has been providing a really appreciated service for people who might have additional needs, including mental health conditions or cognitive impairment, to make sure that they can get their vaccination in a way that is safe for them and meets their individual needs.

They have been incredibly flexible about things, even to the extent that, if someone comes there and they are really wanting to get their vaccination or their booster but they are a bit too scared to come inside and they do not feel like that is going to be okay for them, the staff will go out and work with them in their car to make sure that they get vaccinated. Making sure that carers can get vaccinated at the same time as the person they provide care for also helps a lot with reducing anxiety for people, as well as just the logistics of getting everyone vaccinated.

We will continue with that program. We are also working with organisations like ADACAS and Advocacy for Inclusion and a range of community sector organisations to make sure that information about vaccination and boosters—how to get access, and the priority access bookings for disability care workers and carers—all gets out to those people who most need to know that information.

Our community sector partners have done an amazing job. There are literally thousands of people in this city who are vaccinated today who would not have been vaccinated without the work that we have done with organisations like that, and also with organisations like Directions and Hepatitis ACT, who have made sure that people who might otherwise not have got themselves booked in for an appointment at the AIS or the airport clinics have been able to get access to a vaccination or a booster.

That is part of how we have got to 98.6 per cent of people in this city being vaccinated. I am really looking forward to the day when we can say, "Yes, over 90 per cent of our five to 11-year-olds are vaccinated as well." We are going to get there. We have been doing some great work. But, yes, we are going to keep going until everyone has got access to what they need.

MR MILLIGAN: Thank you, Minister. Thank you, Chair.

THE CHAIR: Thank you, Mr Milligan. In the remaining nine minutes, gentlemen, any further questions for Minister Davidson?

MR MILLIGAN: No; I am okay, thanks.

THE CHAIR: That being so, you have an early mark, Minister. On behalf of the committee, Minister, I would like to thank you for giving evidence today. The secretary will forward you a copy of the proof transcript of today's hearing, when it is available, for you to check for accuracy. If you did take any part of any question on notice or want to provide any more information to the committee to assist in its deliberations, please let the secretary know. Otherwise, we thank you again for appearing. The committee will now adjourn for a brief break until 3.30 pm, when we

will hear from the Australian Hotels Association.

Ms Davidson: Thank you.

Short suspension.

BRIERLEY, MR ANTHONY, General Manager, Australian Hotels Association, ACT Branch

THE CHAIR: Good afternoon, and welcome back to the public hearing of the Standing Committee on Health and Community Wellbeing's inquiry into Public Health Amendment Bill 2021 (No 2). Joining us this afternoon is Mr Anthony Brierley, General Manager of the Australian Hotels Association, ACT Branch.

Please be aware, Mr Brierley, that today's proceedings are covered by parliamentary privilege, which provides protection to witnesses but also obliges them to tell the truth. The provision of false or misleading evidence is a serious matter and all participants today are reminded of this. Please confirm that you have read and understood the privilege statement that the secretary has sent to you.

Mr Brierley: Yes, I have read and understood the privilege statement.

THE CHAIR: Tremendous. Thank you so much. Would you like to make an opening statement for the committee?

Mr Brierley: Yes, I would. Thank you for the opportunity to provide evidence at this hearing. The ACT's licensed hospitality and accommodation industry has been the most adversely affected financially by the coronavirus restrictions that have been implemented since March 2020. We have a unique perspective on this bill that I do not believe is covered in the other written submissions that have been made to date. I would just briefly like to make six points that correspond with our written submission before taking any questions. If it is not too ambitious an assumption, I will take our written submission as read.

The first point is that we believe powers such as regulating private and public gatherings, regulating the carrying on of activities, businesses and undertakings by introducing limits on density or capacity of an area and preventing or limiting entry into the ACT are emergency powers and, as such, should be reserved for declared emergency periods.

We oppose the elements of this bill that allow for those emergency powers to be retained and exercised after a declared public health emergency ends, albeit named as ministerial directions rather than public health directions. This opposition remains, regardless of whether the power is vested in the Chief Health Officer or in the executive. Put bluntly, if the health situation does not warrant a declared public health emergency then neither does it warrant the exercise of emergency powers reserved for a public health emergency however they are named in the legislation and by whomever they are exercised.

The second point is that the necessity for this bill has not yet been articulated by the ACT government. There is no risk that the public health emergency declaration will expire. The public health emergency can already be extended for a period of up to 90 days at a time, with no limit on the number of further extensions. There is no risk that the public health directions themselves will expire.

Paradoxically, the bill does allow for the ACT government to cease using the term

"public health emergency" while retaining emergency powers. There appear to be no administrative or governmental efficiencies that are gained by the passage of this bill. In short, the bill appears, at least to me, to be unnecessary for the time being and certainly not time sensitive.

Thirdly, we timidly support the intent behind providing the executive with the ability to make a COVID-19 management declaration as a disallowable instrument. This will, as the Minister for Health has said, provide the highest level of scrutiny of the decision, something that has been lacking under the current system of making COVID-19 declarations. Rather than the passage of this bill, we submit that a better approach is to amend section 119(5) of the Public Health Act so that a COVID-19 declaration is a disallowable instrument.

Fourthly, the AHA ACT also timidly supports the intent behind realigning decision-making powers regarding public health social measures from the Chief Health Officer to the executive and minister. This improves the ACT's democracy by vesting power in elected officials, rather than in bureaucrats. The power retained in the proposed ministerial directions is exceptionally broad—so broad that it may be unique amongst Australian jurisdictions. These retained powers are so extensive that they quite realistically could create a shadow lockdown, where businesses, in our industry at least, are forced to close because restrictions make it unviable to be open. For this reason, in circumstances where an industry can still be bludgeoned and devastated, we believe that ministerial directions should be disallowable instruments.

Our fifth point is about consultation. The current provisions in the bill do not provide adequate safeguards for our industry and we believe that wider consultation should be required before a ministerial direction is made. In our written submission we have suggested broader consultation requirements, based on the administrative arrangements. That, in effect, would mean that the Attorney-General, Shane Rattenbury, and the Minister for Business and Better Regulation, Tara Cheyne, are also consulted before a ministerial direction can be made. This improvement to the bill would ensure that the negative financial impacts of ministerial directions on our industry are weighed alongside public health and human rights.

Finally, regarding compensation, under this bill we expect that our industry will once again bear the financial brunt of coronavirus restrictions made as ministerial directions. Members of the committee will recall that the Public Health Act was previously amended to relieve the ACT government from any obligation to pay compensation for loss or damage suffered as a result of the public health directions, and clause 13 of this bill continues this arrangement.

It is true, as the Minister for Health has pointed out, that clause 13 does not preclude the ACT government from implementing financial support measures, but neither does it provide an assurance. Removing clause 13 would provide an assurance to our industry that, financially, we will be looked after in the event of future ministerial directions that restrict our trade.

Thank you for your indulgence. I am happy to answer any questions you might have or at least do my best to answer them.

THE CHAIR: Thank you, Mr Brierley. We appreciate that. That is comprehensive information, on top of your submission, so it is really helpful. One of the challenges, I suppose, for the committee is your submission and your opening remarks today being so comprehensive and there being many recommendations that your organisation makes to improve the bill. I would like to work on the assumption that the government has an ambition to put through this bill in some form. Which of your recommendations would your organisation suggest to the committee should be highly prioritised, should be stressed among all others?

Mr Brierley: The written submission has a number of recommendations on the second last page. I think the first one that we would prioritise would be that clause 5 of the bill is amended and that, as I said before, section 119(5) of the act is amended so that a COVID-19 declaration at the moment is a disallowable instrument. I think that is really important.

The second thing that I would stress would be that any ministerial direction that is made, either with the passage of this bill or without it—and, in the instance of it being without it, as a public health direction—becomes a disallowable instrument. I think it is really important in a unicameral system of government that the executive is accountable to the legislature. Sometimes in a unicameral system that sort of accountability between the executive and the legislature can be a little opaque, but it actually makes it more important. I think that, as a unicameral jurisdiction, there is an obligation for as many mechanisms as possible to be disallowable instruments, and those two things certainly should be.

THE CHAIR: I appreciate that. That gives some perspective, so thank you very much.

MR MILLIGAN: Once again, thank you for your submission to this inquiry. You mentioned earlier the viability of businesses to open. Under the bill that is being debated now, provided it becomes legislation, if the minister decided to bring into effect some of the requirements for vaccination and mask wearing and whatnot without being in a state of emergency, what type of impact would that have on your industry—hospitality, entertainment, tourism and so forth—and its viability to open? What impact would that have on sourcing employees, bringing employees in and how many people you can have in a venue? How immediate would that effect be on businesses?

Mr Brierley: Thanks for the question. I would start by saying that, unlike a lot of the other written submissions that I have seen to this inquiry, we are not too concerned about vaccination. I think that that has taken up a lot of words in terms of submissions, but that is not our main drama. Our main drama is related to the three powers that fall under ministerial directions relating to regulating gatherings, regulating businesses and excluding people from entering the ACT.

At the moment, the indoor and outdoor capacity of a hospitality venue is limited to about 50 per cent. Since March 2020 it has never been higher than 50 per cent. That is a power that stays, under this bill, as a ministerial direction. So, straight off the bat, the impact—to your question—is 50 per cent inoccupancy, 50 per cent fewer customers in the door. We then go further down the line in terms of: can you dance, can you stand up and have a beer? Those things have an impact as well, but the main

impact is limiting the number of people that come through the door.

For nearly two years now, we have not been at 100 per cent. So the idea is a little bit grating that we transfer emergency powers over to the executive for them to use willy-nilly for the next 18 months. These are emergency powers to limit the activities of businesses. In the original Public Health Act, I think they could have lasted for seven days. They have now lasted for nearly two years; that is how egregious they are. And we are considering transferring them to the executive for another 18 months. That is quite hard to stomach.

MR MILLIGAN: I totally understand where you are coming from and understand your point. Emergency powers bring in certain abilities, obviously, in a certain situation, but to bring them into legislation, to be able to use them willy-nilly, will have a big impact on business and industry.

I am particularly interested in gathering sizes, venues and whatnot, as well as interstate travel, and the impact that that has on your industry straight away, right off the bat, without even mentioning the industry itself. Really, you think that there is too much of the emergency power going into this legislation.

Mr Brierley: Yes; definitely. They are emergency powers for a declared emergency period, and this bill seems to assume that it is worthwhile to transfer emergency powers to the executive for their exercise, without being a disallowable instrument, for a further period of 18 months—saying that it is not warranted to have a public health emergency but it is warranted for the executive government to retain the powers of the public health emergency! I think people can understand that the hospitality industry and the accommodation industry, which have been the most affected by this, probably find that a little bit grating.

MR MILLIGAN: They have definitely borne the brunt of a lot of this over the last couple of years. There is no doubt about that.

MR PETTERSSON: In your submission you state that the AHA timidly supports the intent behind realigning decision-making powers to the executive and the ministers, rather than to the Chief Health Officer. I was wondering if you could explain your support for that realignment.

Mr Brierley: Yes, you are right. That is our submission; that is in there. I think it is beneficial for democracy that the power is vested in elected officials, rather than in bureaucrats. That goes for whether, under the existing act, it is a COVID-19 declaration or, under this bill, it is a COVID-19 management declaration or a ministerial direction.

The same principle applies that the more power that is vested in elected officials the more beneficial for democracy. That is a path that Victoria have also followed, I believe. They have vested power more in their executive because it is voted in, in one way or another. The challenge that the ACT has is its unicameral jurisdiction. The power ultimately is vested in the legislature, rather than the executive.

If we were to take it one step further, ideally, from a governance point of view, in a

vibrant democracy it would be beneficial to vest as much power as possible in the legislature. I understand that that is not always practicable, but that is a starting point and it is a principle point from which a discussion can emerge. Sometimes it is more practical to have power vested in the executive, but I would not think that applies in this instance. I think that the COVID-19 management declaration should be a disallowable instrument, as the bill provides. For the reason I have outlined earlier—that it will devastate our industry—I think certain ministerial directions should also be disallowable instruments.

MR PETTERSSON: Throughout the emergency declaration, have you seen any issues with the decision-making processes or the powers vested in the Chief Health Officer?

Mr Brierley: I have certainly seen issues with regard to consultation, with regard to understanding what the barriers were. Mr Pettersson, you will recall that there was about a three-month period in 2021 where very few jurisdictions in Australia even had COVID, but our industry was still subject to a 50 per cent cap on its occupancy numbers. That was permitted under the legislation at the time, so it was warranted. But it would have been nice to have had an understanding of the science behind that. We had no COVID for a radius of hundreds of kilometres around us, but we still had COVID restrictions in place. It is hard, almost, to critique the way that decisions are made when industry is so frozen out that we cannot see how those decisions are made, but sometimes consultation at least would have been nice.

MR PETTERSSON: Thank you.

THE CHAIR: Mr Brierley, I should stress that while I do not have any more questions, it is not because I am not appreciating your contribution. I genuinely found the organisation's submission very substantive. So my priority was prioritising that submission, and I feel like you have answered that question.

MR MILLIGAN: I might get you to elaborate a little more on the consultation before any decision is made. Obviously, the public and industry are not necessarily part of the consultation process before making any decision. Would you suggest making any changes there to make requirements that they do consult with certain industries, professions or even the public before bringing in any of these powers?

Mr Brierley: This is a delicate health situation. I do not want to slow down the process too much. I think there is a balance between speed and efficiency on the one hand and consultation on the other. I think that the recommendations that we put in there around consultation should be sufficient—that is, going through the administrative arrangements, looking at the ministers that have policy responsibilities for things that would affect our industry.

Those ministers are sufficiently engaged and across their brief that, if consultation was extended to them, they would know the impacts that the public health social measures would have on our industry and they could feed that through the decision-making process so that there was an adequate balance between public health, human rights and the financial impacts.

That is really all we are after. We see this as a bit of a triangle, with public health on one corner, human rights on another and financial impacts on the third. We just want it to be fair. The consultation, as far as we are concerned, just needs to get to a point where our industry is duly considered at the table. You know, we are not even asking for our way all the time; we would just like an assurance, legislative assurance, that someone is thinking of us.

MR MILLIGAN: You mentioned financial impacts. Would you suggest that some form of compensation could, or should, be considered?

Mr Brierley: Yes. I think compensation should always be part of public health social measures. In a democracy it is a bit hard to disagree with a decision of the Legislative Assembly, and they decided to amend the Public Health Act. But in an ideal world public health measures should not be implemented without compensation. The ACT government has provided a lot of financial compensation, and I will acknowledge that, in concert with the commonwealth. But it has always been a really difficult fight to try and get it. Over the past month, when we have had nightclubs shut because of restrictions, it has been a fight to get to today, where there is an announcement about support.

I do not think that is fair. I do not think that is a good use of people's time. Where an industry is calling for support, when ministers are side-tracked by people begging for support, when staff do not know how they are going to look after themselves because the government will not provide support, I do not think that that is equitable.

I think a better approach is to have a compensation provision written into the legislation so that when this stuff happens we know it will be fair. And then no-one is going to argue about it; there is no lobbying process. The funny thing is, if you guys put that in the bill, it does me out of a job because people know that the compensation will be fair. That is all we are after. It definitely should be in the bill. From my personal perspective, I think it is a shame that that provision was removed from the Public Health Act.

MR MILLIGAN: Yes. Thank you very much.

THE CHAIR: Mr Brierley, I really appreciate your time today, your frank advice to the committee and your substantive submission. All of it is very helpful and will assist us in our deliberations. Thank you again for appearing. If you took any questions on notice, or if you think there is any more finer detail that would assist the committee in its deliberations, feel free to send that through to the committee secretary. Otherwise, the committee will take a brief break and be back at 4 pm.

Mr Brierley: Thank you, Chair.

Short suspension.

KLUGMAN, DR KRISTINE, President, Civil Liberties Australia
ROWLINGS, MR BILL, Chief Executive Officer, Civil Liberties Australia
STAMFORD, MR CHRIS, Human Rights Campaign Manager, Civil Liberties Australia

THE CHAIR: Welcome back, friends, to the Standing Committee on Health and Community Wellbeing public hearing of our inquiry into the Public Health Amendment Bill 2021 (No 2). The time being 4 pm, we are now joined by Civil Liberties Australia and their representatives Dr Kristine Klugman, Mr Bill Rowlings and Mr Chris Stamford. Friends, please be aware that today's proceedings are covered by parliamentary privilege, which provides protection to witnesses but also obliges them to tell the truth. The provision of false or misleading information is a serious matter, and all participants today have been reminded of this.

Can you please confirm, all three of you, that you have read and have understood the privilege statement that the secretary has sent to you?

Mr Rowlings: Yes, we have.

Mr Stamford: Yes, we have.

Dr Klugman: Yes.

THE CHAIR: Tremendous, thank you so much. I would like to invite you now to make an opening statement to the committee if you wish.

Mr Rowlings: Okay. I will start off and then I will hand over to Chris to broaden it out a little bit. Basically, the issue is the balance between individual rights and the public health—which is a hard balance to strike—all under the expression of the right to life. Obviously, we do not support the views of extremists that prioritise their individual or solo rights at the expense of public health and community rights. Part of our submission pointed out the type of material that is going around that is doing exactly that. It is great to see that this bill attempts to find that balance, and particularly that it involved the Human Rights Commission so much in the preparatory stage.

I mentioned, in the correspondence, that we are involved in a general campaign for a better approach to that balance of human rights in the ACT, and nationally, in fact. We are part of a petition that is before the Legislative Assembly to extend the Human Rights Commission's complaints processes as one part of that campaign. We will focus on that aspect during this hearing—Chris Stamford will speak to that in a moment—and basically what we are saying we believe should apply to any act of this nature which comes in and deals with human rights.

In general, we agree with a much more consultative approach. That is what we are suggesting in our submission—that, particularly in an area such as guidelines, where possible the community be engaged in the process of developing the guidelines. If there was a review mechanism of a judge or a magistrate, perhaps that person could be part of a panel which involved the community in making decisions, rather than just one-off judicial decisions. Because the truth of all of this stuff is that you can legislate

all you like, but unless you carry the community with you there is going to be chaos. So you obviously need the imprimatur of the community to achieve what you want to achieve in life. I will hand over to Chris.

Mr Stamford: Thanks, Bill. There will be just a quick set of comments from me before we go to your questions. Firstly, Civil Liberties Australia really welcomes the intent of the bill to account for the rights protected by the ACT's Human Rights Act. It looks like a good first step towards developing a new legislative framework to integrate transparency and accountability in the process, which we are very happy about. The transparency of the grounds for decision-making, by publishing medical advice on which declarations and directions are going to be based, is also valuable, as is the increased oversight of scrutiny by the Assembly, including the introduction of disallowable and notifiable instruments, where they apply under the bill.

The inclusion of an objects clause attaching the bill to the Human Rights Act is also something which we are very keen on, and the attempt to create review and exemption mechanisms, including a limited independent merits review, is something that we agree with, to the point that the bill takes it. Importantly, the inclusion of a sunset clause is something that we also welcome.

There are a number of issues which we have concerns about, which are also concerns that we will be expressing should the Assembly agree to go ahead and hold a review based on that petition around no rights without remedy, and they are considering that at the moment. We share the concerns of the ACT Law Society and the ACT Human Rights Commission on excluding specific directions by the Chief Health Officer to an individual from the general accountability framework, which is covered by the bill; the lack of real time oversight and monitoring from existing competent and independent authorities, particularly given the length of time that declarations and directions can be in force in this process; the lack of a clear route to access remedy and compensation for individual losses and damages arising from decisions made under the bill—and we will come back to that, I am sure—and, importantly, the fact that the guidelines, as practical expressions with the intent of the directions for this bill, are not actually included in it.

CLA's particular concerns generally arise from questions about how people can expect to be treated under any legislation and, particularly in relation to this bill, any specific rights that underpin that treatment, and, importantly, the ethical infrastructure that is needed to get fast and fair remedy for breaches of those rights. We think that this bill would be improved by the addition of a schedule which addresses those particular issues. And that schedule will work if the general concerns which have been raised by us, and also by the Law Society and the Human Rights Commission, are picked up in the bill.

> As I said, and as Bill said, since 2019 we have been proposing that a draft charter be based in every bill and that the complaints process by which the Human Rights Commission attends to acts be extended to cover all rights under the human rights legislation in the ACT. While that is a matter for the next review, the fact that this bill will be in place, presumably at the time that that review occurs, means that there is relevance for this bill to that process as well. Bill, I will leave it there and we will go back to questions.

Mr Rowlings: That is why we are quite happy to provide a draft charter for you as a question on notice to say, "This is exactly what we mean in what we suggest adding to this bill, and to any other bill that comes in that involves the Human Rights Act from now on."

Mr Stamford: Yes, and we pulled together that draft charter to be attached as a schedule to a bill as a means of gathering our own thoughts together in anticipation of the review being agreed to by the Assembly around no rights without remedy.

THE CHAIR: Thank you. To speak on behalf of the committee, I am sure we would appreciate taking a copy of that charter on notice to review and reflect on while we are deliberating on our report. That would be appreciated. I guess my first question is reflecting on a lot of the submissions that the committee has received, many of them on the website, from individuals and organisations who oppose the bill, and who in their opposition have invoked phrases like their civil liberties, their freedoms and the rights of the individual. I am interested in how your organisation, Civil Liberties Australia, has reconciled the nuance between the rights of the individual and then also, the rights for everyone to public health and safety. Could you reflect, from your civil libertarian perspective, how you have reconciled those two challenges the government has to compete with.

Mr Rowlings: You mentioned "civil libertarian perspective". You need to be quite precise in the words you use, because libertarian we are not. The way we define it is this way: everybody has the "civil liberty"—that is a "y" the end of it—to make their own decisions and not be vaccinated if they wish. That, in fact, is in place in Australia. That is the rule in Australia at the moment; there is no mandatory vaccination.

With that civil liberty that is your individual right, but if you are one of those people who agrees with "civil liberties"—that is, with "ies" at the end of "liberty"—then you have a responsibility, as part of that group of society, to balance your individual right against the rights of others. And in this case it is quite clear that the rights of others, in terms of public health, outweigh the individual right to have your own way apart from refusing vaccination if you wish. You cannot scream "Fire!" in a theatre, is one of the ways of describing what your rights are. Another one is to say that everybody has a right to drive wherever they like. Well, okay, go ahead and drive the wrong way down the freeway and see how long you get on. So there are practical limits, and the practical limit in this case is that you have to consider the rights and civil liberties of other people. No man is an island, is perhaps another way of putting it.

Mr Stamford: Can I add one extra point to that? The way in which society chooses to balance the rights is something that Civil Liberties Australia is particularly concerned about. We refer to ethical infrastructure in this particular case as being as important as any other form of infrastructure for a sustainable society. And that ethical infrastructure should include the opportunity for people to understand what their rights are and to have a review when those rights are limited. If those rights are breached, then they need opportunities to seek remedy for that breach and that remedy may well include compensation.

In the broader conversation that we have been having in the run-up to the petition and

potentially, if the Assembly agrees, going through the review, our view would be that a lot of the issues that have been discussed in relation to this bill would be dealt with by allowing any individual who feels that their rights have been breached firstly to seek a review and possibly remaking of the relevant decision by the decision-maker; then, secondly, if that does not work, a third-party conciliation process run through the Human Rights Commission; and, if it is necessary for either compensation or a remedy to be mandated—in other words, the conciliation has not worked—individuals in the ACT should have access to the lower courts, either ACAT or the Magistrates Court, in order to allow that to be pursued.

And that allows a clear, staged process by which people can actually seek remedy and compensation for when their rights have been breached. For us, this act goes part way to that. There are some rights there, where breaches occur, where you can find a review. There are a very limited number of rights where you can go to third-party adjudication through a judge, a magistrate or a lawyer with five years' experience. From our perspective, in the longer term we would be looking for a much broader approach than that, but we applaud the act for going as far as it has.

Mr Rowlings: Yes. Hear, hear!

Dr Klugman: Just to sum up, we see a revised Human Rights Act as something that embodies no rights without remedies, which is the petition to which Chris referred, going before the Assembly at the moment. And we see this as an umbrella protection, really, that occurs to all legislation that goes through the Assembly.

Mr Rowlings: All human rights legislation.

Dr Klugman: All human rights legislation that goes through the Assembly. So it becomes an umbrella thing that people know, if their rights are infringed, what their remedies will be under the Human Rights Act.

Mr Stamford: But in the meantime we have constructed a schedule for this particular bill, which goes some way to dealing with the issues that we have raised, to the extent that this legislation and potential amendments to it will allow.

THE CHAIR: Great. Thank you, all of you, and thank you in particular, Bill, for clarifying the error in my question. It is good to be able to get that clarity.

MR MILLIGAN: Once again, thank you for your submission to this inquiry. You mentioned within your submission having representatives, particularly even a representative from your group and other groups. I am just wondering how these representatives would be appointed and what groups in the ACT would be appropriate.

Mr Rowlings: Well, a mechanism can be drawn up for having a sort of standing group that could be called upon. You might have half a dozen or more groups—for, example, the Council on the Ageing, the Health Consumers Network, ACTCOSS, us, maybe the Australian Privacy Foundation—those types of people. They could be called upon as needed, depending upon what the particular issue was. There is no shortage of groups in Canberra who can add their expertise in that area. We are very well off for that.

So it is a matter of drawing up a mechanism. We are happy to talk with and consult with anyone on that if you would like us to suggest it. Certainly deciding on the guidelines is an area where that could be done in advance. And then you can say when you publish the guidelines, "Look, a wide cross-section of the community has endorsed it." That is where carrying the community with you is very important in this type of legislation.

MR MILLIGAN: And what about the community in general? You mentioned a few societies like COTA, Law Society, your society as well. But what about the general community? What type of involvement could they have?

Mr Rowlings: Well, as you do, you can advertise and put it on the website and make things known, as has been done for this inquiry. You would tend to find, of course, that it is the people who are most concerned most of the time that are normally involved. But there is no reason why you cannot go through your normal Legislative Assembly processes of consultation and advertising.

Mr Stamford: And, of course, if you take up the suggestion from both the Law Society and the ACT Human Rights Commission that these guidelines and the various directions all become disallowable instruments, that means that it is possible for individuals to lobby their Assembly members to make sure that their views are known at the time that those regulations sit on the table—an option which is not available for quite a lot of the material that is going to be used as the practical expression of those directions at the moment under this particular bill.

Mr Rowlings: And just to add what always happens with legislation like this: it is a wonderful attempt to provide very fair human rights-based legislation—I congratulate you on doing that—but something always comes out of the woodwork that none of us can think about. Something comes way out of left field which needs addressing and needs a person being able to get to somebody and have a right to be heard and have a remedy if they have been badly treated.

MR MILLIGAN: Yes. Thank you very much.

MR PETTERSSON: A lot of the submissions to this inquiry which adamantly oppose the bill, invoke concerns for their civil liberties. I was wondering if you had an opinion as to whether this opposition is grounded in genuine concerns for their civil liberties or as a smokescreen for anti-vaccine sentiment.

Mr Rowlings: I am one of those people who gets the trolls quite regularly, as you would imagine, running a civil liberties website and organisation. As was evident by the letter that I submitted as part of our submission, quite often the more erudite people start out one way but quickly towards the end it gets to be an anti-vax movement, where it starts out sounding quite sensible but ends up saying that there is mandatory vaccination.

There is not mandatory vaccination. Nobody is holding anyone down and thumping something in their arm. That is not how we work. There are consequences if you choose not to be vaccinated. You cannot go to the pubs of Mr Brierley, unfortunately,

in some cases, but there is no mandatory vaccination in Australia. So you will find that these things get trolled into submissions and into emails and so on.

Mr Stamford: Can I just add one very quick thing to that? I think there is also a question of the way in which people choose to use language around this. Quite often, people who are disadvantaged by change or disadvantaged by circumstances find civil liberties language the best way in which to explain their feelings of disadvantage, however that might be. And you will find that there is an anti-vax movement—it is unfair to say it is a movement in Australia; there are a lot of people who hold those sentiments in Australia—who jump onto that language and take the general sense of disadvantage that people feel and turn it into a particular view about a particular issue and the way in which it inflicts on civil liberties.

It is not a view that Civil Liberties Australia subscribes to and, as you will have gathered already, we are very careful about the way in which we use the language of civil liberties in order to explain the positions we take. Quite a lot of the submissions that you have received are less careful than we have been in the way in which they have expressed things as civil liberties when, in fact, they are really just statements of personal preference.

Mr Rowlings: And one other point to make is that I think it is something like 1.4 per cent of the ACT community who are not agreeing with those who see a very wide need for vaccination and for health emergency legislation.

MR PETTERSSON: Yes.

Mr Rowlings: So you need to keep in context how small the numbers of these people are, although their voices get amplified in the media and particularly on social media, way beyond the extent of their reality.

MR PETTERSSON: Well said.

THE CHAIR: Spring-boarding off that, I would be interested in your perspective about those individuals who, as you rightly point out, have invoked language around civil liberties when describing their situation. Say they are a disability support worker or a youth worker with children, a teacher, or someone who works with a vulnerable population who has made the choice not to get vaccinated and they invoke this civil liberties language when describing their position of being perhaps taken out of the classroom or out of the workforce. What role do you think the state—be it this government, the federal government or any other government—has in providing financial supports or making professional allowances for people who make the choice not to get vaccinated and who are co-opting this civil liberties language to support their choice?

Mr Rowlings: I think the mechanisms that are in place—and that is to find them work in their chosen area which does not deal with people, where they do not have to be vaccinated—is the first choice, but ultimately if that cannot be found then it is their choice not to be vaccinated and there are consequences of that which they are aware of. They are never not aware of what the consequences are.

Mr Stamford: I might add that one of the benefits of this bill is the fact that it does have an object to it, which is tied very closely to the Human Rights Act. The measures included in the bill have the intent of preventing or limiting the spread of COVID-19, therefore protecting members of the ACT community from the risk of serious illness or death that could result from a COVID-19 infection, or, equally, from other diseases or injury, and having your hospital or health system overwhelmed by cases.

From our perspective, provided that the decisions made in relation to that objective are done with that legitimate purpose, they have a rational connection between the limitation and the purpose, and that they are proportionate, then there is a case to be made for the broader right-to-life issue overriding limitations on other human rights, provided that there is a sunset clause on that process and a review mechanism that allows people to take individual cases through to remedy or compensation.

Mr Rowlings: Which is what we suggest would be in the act.

Mr Stamford: Yes.

THE CHAIR: Tremendous. Mr Milligan or Mr Pettersson, do you have any further substantive questions?

MR MILLIGAN: No. I would probably like just a little bit more on the review process, the right of review and, let us say, also compensation. Obviously, that is not part of this bill, but how important is this?

Mr Stamford: I will start, and Bill will come over the top because he has very clear views on this. The larger campaign that we have been deeply involved in for the last two years within the ACT is called "No rights without remedy". There is a requirement under the Universal Declaration of Human Rights that you be able to attend the appropriate independent tribunal and seek remedy when your rights as an individual have been breached. Compensation forms a part of a potential remedy for a breach of rights. It is difficult to see how you can have a right to something if you have no means by which you can obtain a remedy if that right has been breached. In that case you do not have a right anymore. So for us it is a critical question.

Mr Rowlings: So compensation is not the only way of solving this. It could be that it is solved by restoring you to the position you were in before or reinstating your job or whatever. But compensation—

Mr Stamford: Or remaking a decision relating to you.

Mr Rowlings: Yes, remaking a decision. But compensation is one of those options at the end. It is not the only option.

MR MILLIGAN: How would this apply to business in particular—to business, not just individuals?

Mr Rowlings: Well, it would not apply to business. This is only about human rights, and businesses are not considered as part of that human aspect. So there are no corporate rights that would allow them to operate under legislation of this nature.

MR MILLIGAN: Even if some of these decisions might impact quite significantly on a business or even an individual who may be working in a particular industry but then may not be able to work in that industry because they are not vaccinated? Do they not have a right to employment and a right to work in the profession that they have chosen to work in?

Mr Stamford: No, I think—

Mr Rowlings: No. You do not have any right to work in the employment profession you have chosen. If there are jobs you get employed, but you do not have a right to walk in and say, "Hey, I want to be a doctor," or, "I want to be a plumber." I mean, it does not work that way.

Mr Stamford: The other thing is that I think we are conflating two different things here and it is important to keep them separated. For us, in the conversation that we have been having today the issue is about the right of an individual, not necessarily the right of a business to maintain itself as a business. Now, it may well be that, as a consequence of decisions made by government, individuals can be affected in their employment. In the ACT you have the right to work, for example, and if that right to work has been breached by an ACT government decision in relation to COVID, as an individual you have a right to seek remedy to that, but not as a business. That is a different issue.

We are not suggesting for a moment that those businesses do not have claims against government when it comes to the way in which they have been asked to adjust their practices. That is another question, but that is not a human rights issue.

MR MILLIGAN: Let us address the individual that you have just referred to, because I think we will probably see more of that, where an individual may lose their right to employment or work because of a government decision for vaccination.

Mr Rowlings: Well, they do not have a right to be employed in that particular job. They have a right to some work, but not necessarily that work. That is the distinction.

MR MILLIGAN: But that distinction would change—

Mr Rowlings: They can, or they may move interstate, or they can—

MR MILLIGAN: But obviously that distinction would change if the government decided to put a requirement in for you to work in that industry.

Mr Rowlings: Well, if the government needs to make that decision, then that is part of the discussion with the hotels industry that Mr Brierley was talking about, in advance, where there is consultation as to the consequences, I suggest. But it is not part of our submissions.

MR MILLIGAN: Yes, of course. Okay, thank you.

THE CHAIR: Thank you. Mr Pettersson, did you have, in our remaining few minutes,

a substantive or a follow-up?

MR PETTERSSON: No, it is fine.

THE CHAIR: It is very close to 4.30. I would really like to thank all of you, Dr Klugman, Mr Rowlings and Mr Stamford. Thanks so much for making your time available to the committee this afternoon, for your comprehensive submission and for the additional information you have agreed to provide the committee on notice. We all look forward to having a look at that.

You will be provided with a copy of the proof transcript by the secretary to fact check. If there are any omissions or errors, please let us know for the record. We look forward to receiving your further information. The time being 4.27 pm and our next participant due to join us at 4.30, the committee will take a brief break and resume at 4.30. Thank you very much again for your time.

Dr Klugman: Thank you.

Mr Rowlings: Thank you for your time.

Short suspension.

CARROLL, MS ELIZABETH, President, ACT Law Society

THE CHAIR: Good afternoon, friends. Welcome to the final instalment of today's public hearing of the Standing Committee on Health and Community Wellbeing's inquiry into the Public Health Amendment Bill 2021 (No 2). This afternoon we are joined by Ms Elizabeth Carroll, the President of the Law Society of the ACT.

Ms Carroll, please be aware that today's proceedings are covered by parliamentary privilege, which provides protection to witnesses but also obliges them to tell the truth. The provision of false or misleading evidence is a serious matter and all participants today have been reminded of this. Can you please confirm that you have read and understood the privilege statement that the secretary has provided to you?

Ms Carroll: Yes, Chair, I have read that.

THE CHAIR: Tremendous; thank you so much. Do you wish to make an opening statement?

Ms Carroll: Yes, Chair.

Thank you very much to the committee for the opportunity to provide evidence in relation to the Public Health Amendment Bill 2021 (No 2) on behalf of the ACT Law Society. The society supports proactive and timely decision-making from the government in managing the COVID-19 pandemic and protecting public health on the basis that safeguards are in place. The society recognises that there are some important protections included in the legislation, and these are identified in the explanatory statement. However, the society considers there are a number of gaps and areas where these could be improved and should be improved.

The new powers conferred by the bill impose significant restrictions on human rights, including rights to work and freedom of movement, and such powers should be subject to independent oversight and scrutiny. Particularly as this legislation specifically applies when we are moving away from the treatment of the pandemic response as a public health emergency, the use of such powers must be necessary and proportionate to the risk that the COVID-19 pandemic poses to public health in the ACT.

We have provided a submission, which you will be aware of, but in summary our main concerns relate to the length of time a COVID-19 management declaration can apply. At the moment it is drafted as being six months. This is significantly longer than current public health emergencies and also its equivalent Victorian legislation, which is only four weeks. There is a potential for directions to be made in relation to specific individuals. In our view, directions should be directly based on people falling into categories of concern, not named individuals. And, again, this is specifically excluded in the Victorian equivalent legislation.

We consider that there should be greater detail regarding oversight by Legislative Assembly committees. We see that as an important protection, but at present there is no specific committee named and the reporting process is fairly unclear. Again this is in contrast to the Victorian equivalent legislation. We are concerned about the

capacity to override the scrutiny of the Human Rights Commission. We consider that to be an important protection. We also note that some of the offence provisions have the potential to affect third parties such as businesses who are required to prevent a person accessing a particular place, but there are no powers given to those people about how they are to comply, and it is unclear how they can actually adhere to those requirements.

We are also concerned about some of the review rights. There is a lack of internal and merits review rights for exemptions under the vaccine declarations, and we are also concerned about the limited nature of the merits review rights that are provided under the Chief Health Officer declaration and the ministerial declarations.

So, overall, that is a summary of the concerns that we raised. We recognise that the people of the ACT have shown great resolve and high levels of compliance in relation to the COVID-19 management in our community. We consider that it is important that this legislation include sufficient protections to ensure that public confidence in this new phase of the response continues. Thank you.

THE CHAIR: Thank you very much, Ms Carroll. I appreciate that. I will kick us off with the first question. You touched on this in your opening remarks, but in the submission you state that as a general position the society supports proactive and timely decision-making from government, which I implicitly read as a sort of broad support for the merits of the bill, but you do speak about the necessity for having safeguards in place and you mentioned a few of them. I asked a similar question to earlier submitters just in the interests of prioritising the committee's work. What is a safeguard that you do not think currently exists that we should prioritise, that should be an absolute necessity to have in there to provide that safeguard and that assurance?

Ms Carroll: All of the concerns that we have listed are important, but in terms of the vaccination declarations, it does seem to be quite inconsistent that external review rights and internal review rights are provided in relation to the two other types of declarations, being the Chief Health Officer declarations and ministerial declarations—so when exemptions under those two apply you are able to get a review—but there is no process of internal or external merits review for the vaccination declarations. We are unsure as to the reasoning for that but the protection that comes from simply being able to raise issues where there might have been an oversight or there is some special issue that arises, we think is very important.

We think that is important generally, but in this situation we often have rapidly evolving situations and there may be things which, when these declarations might be made, people might not be aware of. These are not situations that are set in stone, where people are aware of all the different permutations that can arise. I think it is particularly important to have that merits review in these sorts of situations. So that is a very high priority in terms of the situations and the issues that have arisen.

THE CHAIR: Great, thank you very much.

MR MILLIGAN: Once again, thank you for your submission to this inquiry. Within your submission you mention the use of emergency powers and that these powers must be necessary and proportionate to the risk the COVID-19 pandemic poses to

public health in the ACT. I am just wondering if you could elaborate a little bit more on that and actually give an indication on what must the pandemic—COVID—present to be enough of a risk to the public health of the ACT to bring in these powers? Do you have to look at the hospital numbers, the ICU numbers, the number of cases? And should there be some sort of measure or instrument in this legislation that it should be guided on?

Ms Carroll: As you have said, we think that we need to make sure that we are looking at the level of risk and then that the measures to address that should be proportionate. So one of the things that we are really looking at is that this legislation is all based around the idea that we are moving away from that very serious public health emergency. The legislation is based on the fact that we are moving away from that.

Our position is that, then, commensurate with that are the safeguards we need to have in place—and also the fact that we have more time to deal with this need to rise in relation to that. I guess as the ACT Law Society we do not have a specific position around particular health measures or indicators that should arise. Obviously given the kinds of powers that we are talking about here—these powers include segregation or isolation directions, requirements around vaccination and requirements relating to medical examinations or testing—those powers can actually apply to specific individuals as the legislation is currently drafted, but those are very serious powers and obviously have implications for the human rights of those involved.

So I guess you would want to have those powers triggered only where there was a serious issue, but you would also want to have protections of review rights and also those protections around oversight by Legislative Assembly committee and around the lengths of time that they are declared for. So one of the things that we are concerned about is that this COVID-19 management declaration, which founds the operation of this part of the legislation, is based on a declaration that can last for periods of up to six months.

And as you have alluded to, the situation in terms of hospital numbers and so on can change quite significantly over a period of six months. We think that really that should be for a much shorter period of time. For the Victorian legislation it is only four weeks and with extensions of three months. Those kinds of reviews of those kinds of medical indicators we think really need to be undertaken more often. There is a provision for having a kind of review of the existing declaration, but we think that really you need to be having a proper look at it and re-declaring it. And that is one of, I guess, the safeguards that we think should be in place.

MR MILLIGAN: And maybe as part of one of those safeguards or one of the measures that they review before declaring any sort of restrictions on the public, should there be consideration of what type of economic impact that this might have on the ACT?

Ms Carroll: There are, I guess, a range of considerations there. I think those sorts of considerations would be relevant, but I guess our focus has been more on the sort of general safeguards rather than the specific factors that we would look at. But obviously when you are weighing these things up you need to look at a whole range

of considerations, so that would be something to look at.

MR MILLIGAN: Okay, thank you very much.

MR PETTERSSON: In your submission you state that the bill will allow for directions to be applied to a single, named individual. I was wondering if you could articulate to the committee how that could transgress someone's right to be treated equally before the law or discrimination law.

Ms Carroll: The way the current legislation is drafted, it is very clear that the Chief Health Officer direction can go to a specific individual. In that case, the accountability measure of being a notifiable instrument is removed. We understand that that may be because of privacy issues, but in that case we think that there should be another accountability measure, because effectively the wider public are not going to be aware that any sort of declaration has been made or of the nature of it.

The other aspect of that is that when you are generally making legislation, rather than specific decisions about individuals in terms of, say, the exemptions, you would normally be making legislation that applies in terms of the risks and so on that apply to that person. If you are relating it to an individual, in our view it should be more that that person has some sort of characteristic that means that that declaration needs to be made, like they currently have COVID-19 or something like that, rather than naming specific individuals, and we are unclear as to why that would occur.

I guess the other concern is that, because there are very limited means for review in relation to those declarations and directions, those people then have a very restrictive imposition on them, depending on the type of order that is made, potentially without rights for external review. For example, there is no external review for a decision relating to refusal for an exemption from a Chief Health Officer direction relating to medical examinations or testing or providing information. If that is about a specific individual, it seems to be quite concerning that the person would not have any review right in terms of an external review.

MR PETTERSSON: Thank you.

THE CHAIR: A follow-up question, anybody? No? Believe it or not, Ms Carroll, I do not have another question either because, like so many who have submitted to this inquiry, your submission was quite detailed and your opening statement certainly gave us a lot of clarity around that. I appreciate that. I will put it back to Mr Pettersson and Mr Milligan, if either one of you has any more substantive questions?

MR MILLIGAN: No, not a substantive. I think the submission, like you said, is quite detailed and quite explanatory.

THE CHAIR: Thank you, Mr Milligan. Mr Pettersson?

MR PETTERSSON: Yes, one quick one. Your submission compares the proposed bill here in the ACT and the Victorian bill of similar nature. I was wondering if you could offer some further comment on the proposed time frames for the ACT powers, as opposed to the shorter Victorian time frame. Are there any pros and cons to either

approach?

Ms Carroll: Under the Victorian legislation the initial period for which they can make the equivalent kind of declaration to our COVID-19 management declaration is four weeks. That is quite significantly shorter than the six months that is currently in the draft legislation. It can then be extended for a period, of which the maximum is three months. The benefit of having the shorter period is really that it is an extra accountability mechanism, in that it means that, regarding the person who is making it, their attention has to be drawn to making sure that the circumstances which justified making it continue. Given the important nature of it and the impact on human rights, we think that is actually quite important.

I should note that one thing that we are very supportive of in this bill is the sunset clause, saying that it will cease to operate after 18 months. We think that is beneficial in that it means that, even if the six months remains, there is only the capacity to extend three times and that will bring it to an end as well. I guess there is the potential for further legislation, but, again, it is a revisiting of that considered decision about: "Should this continue and does this current health situation justify the continuation of the application of these very significant powers?"

MR PETTERSSON: Thanks.

THE CHAIR: Thank you. Ms Carroll, we do have a few moments remaining, so I thought I would ask: is there anything in particular in your submission, your opening statement or in answers to questions that we have put to you today that you would like to stress upon the committee? Would you like to use this opportunity to give us any more information that you think will help us?

Ms Carroll: I did mention the offence provisions, because the offence provisions at present, yes, do have the effect that they could apply to, say, a business that is required to then prevent a person from accessing a particular place. I mentioned that there are sort of no powers given to those people as to what they are supposed to do, how they are actually supposed to comply with that.

I just wanted to bring out that, given that it is a criminal offence, it is quite a serious issue, in terms of those considerations from the Law Society, that we would have a criminal offence where it is so unclear for someone how they could possibly comply with that. I think that is something quite serious for consideration. This is an implication that would apply to someone who might not actually have COVID-19 or be directly involved but then they have this requirement. I do think that some consideration needs to be given to how that could be clarified in some way or ameliorated in some way so that it does not have that effect.

THE CHAIR: Tremendous. Thank you, Ms Carroll. I appreciate that, and I am sure the other committee members appreciate that too. There being no more questions, I am happy to call our proceedings to a close a bit earlier than intended.

Ms Carroll and the Law Society of the ACT, thank you so much for your considered submission and your time before the committee today in answering our questions. It will no doubt assist us in our deliberations. I extend a genuine thankyou, on behalf of

the committee, to all of those who appeared before us today and took time out to submit and to answer our questions.

Ms Carroll, the secretary will provide you, in the coming days, with a copy of the proof transcript of today's hearings, an opportunity for you to clarify any omissions or errors—fact check, if you will. Equally, if you took any questions on notice or you want to provide any more information that will assist the committee, please feel free to get in touch with the secretary and do so. I declare today's public hearing of the Standing Committee on Health and Community Wellbeing adjourned. Have a good afternoon, everyone.

Ms Carroll: Thank you.

The committee adjourned at 4.50 pm.