



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry Into Annual and Financial Reports 2022 - 2023](#))

Members:

**MR P CAIN (Chair)
DR M PATERSON (Deputy Chair)
MR A BRADDOCK**

TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 17 NOVEMBER 2023

**Secretary to the committee:
Ms K de Kleuver (Ph: 620 70524)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

APPEARANCES

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Amended 20 May 2013

The committee met at 1 pm.

Appearances:

Public Trustee and Guardian

Hughes, Mr Aaron, Public Trustee and Guardian

Hughes, Mr Callum, Senior Director, Finance Unit

THE CHAIR: Good afternoon and welcome to this public hearing of the justice and community safety committee inquiry into annual reports for 2022-23. The committee today will hear from the Public Trustee and Guardian, the ACT Official Visitors, the Human Rights Commission and the Minister for Consumer Affairs and Minister for Gaming.

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

The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be useful if witnesses used these words: "I will take that question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

Today we welcome witnesses for this session from the Public Trustee and Guardian. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. Please confirm that you both understand the implications of the statement and that you agree to comply with it.

Mr A Hughes: I agree.

Mr C Hughes: I agree.

THE CHAIR: Thank you. As we are not inviting opening statements, we will now proceed to questions. Mr Hughes, what is the average time it takes for an estate to settle under your management?

Mr A Hughes: With an estate of a deceased person, our goal is to have those administered between 12 and 18 months, but it depends on the level of complexity involved with the estate, of course, in terms of whether that is achievable or not.

THE CHAIR: Have estates ever taken 10 years or more to settle?

Mr A Hughes: In terms of the bulk of the estate, no, but I am aware that there are circumstances where, for example, we are not able to locate beneficiaries of an estate, and it can take a longer period of time. I am quite happy to take on notice whether we

have had other instances of an estate taking that long, but not to my knowledge.

THE CHAIR: That would be useful, and perhaps the reasons it has taken so long.

Mr A Hughes: Yes. I am happy to take that on notice.

THE CHAIR: And any other details you are able to provide, given privacy considerations.

Mr A Hughes: Yes, of course.

THE CHAIR: What fees does the Public Trustee and Guardian take from an estate?

Mr A Hughes: From an estate, the fees that we charge are governed by legislation and regulations. They are published on our website. I will ask Mr Hughes to take you through the detail of the standard set of fees that might apply to an estate.

Mr C Hughes: We have a sliding commission based on the value of the estate at the date of death. The current fee is 4.4 per cent for the first \$300,000, 3.3 per cent for the next \$300,000, 2.2 per cent for the \$300,000 after that, and 1.1 per cent for the remainder.

THE CHAIR: Over a long enough time, have you seen the value of an estate materially eroded because of your fees?

Mr A Hughes: I am trying to—

THE CHAIR: The fee is a one-off fee; there is not an annual component to the fee?

Mr C Hughes: No, it is just a one-off at the finalisation of the estate.

THE CHAIR: How long can management of an estate take when there are minors involved, and does this prolong the settlement?

Mr A Hughes: Where beneficiaries of that age are involved, that can create complexity, but it depends on what has been established by the person in their will. It is a bit hard to say that every estate where there are minors involved may lead to an extra period of time, because that may not be the case; there may actually be quite clear arrangements from the deceased person in their wishes.

MR BRADDOCK: I am interested in the culture of the employees within the Public Trustee and Guardian because I am concerned that the history of some serious cases has taken their toll, perhaps, on them. How are they coping and what supports are in place for them?

Mr A Hughes: Thank you for that question. The work of the Public Trustee and Guardian stretches across, obviously, more supported decision-making spaces, where we have guardianship and financial management orders and work that we progress, right through to a more trustee-focused area—where we are administering the estates of deceased persons, where we are looking after unclaimed deceased persons' bodies,

unclaimed moneys arrangements and a whole raft of other trust-like arrangements, if you like.

In all of those cases, the work that our people are engaged in and what they hear can be quite traumatic and can be quite difficult for our people to work with. They are effectively working with case management skills to understand and put themselves in the shoes of the clients that we work with—their stakeholders, their supports—and it is fair to say that some people who are subject of orders around financial management and guardianship, of course, do not want to be subject to those orders. Our people need to work as well as they can in a professional and courteous way to help support those clients.

The culture of the organisation, as I have it—and I have been there for around eight or nine months—is one where there is a great deal of professionalism and a great deal of empathy and respect for our clients. Are there instances where we will receive complaints and concerns about our actions and decisions? Of course, there are. That is the nature of some of our pieces of work. But we are actively working to look at things like our employee survey, and look at and engage with teams on their structure and the way they do their work, to see what it is that we can do to make sure that, from a workplace and a work culture point of view, we are doing everything we can to provide that support and meet our work health and safety duties. That, of course, flows into the client experience. If our people are supported and well, they are able to provide a better service to our clients as well.

MR BRADDOCK: They have been able to hold up well considering the audit reports and the discussions here in the Assembly about the Public Trustee and Guardian role?

Mr A Hughes: I can talk to you about what I have done in relation to the audit report that we have received in the time that I have been in the Public Trustee and Guardian role; that is, to engage with the team and be quite up-front and frank with the team about the benefit of an audit report, the benefit of recommendations, and the benefit of having an external party, like an Auditor-General's audit, look at what we do and how we do it.

I particularly focus on the processes and ways that we conduct our work and measure us against other public administration standards. The team have responded very well to hearing that from me; that is my belief. Also, they can see a very clear action plan for us in terms of how we take those recommendations forward. They want to engage and get involved in how we design those improvements to our processes and things like our record-keeping and systems use as well.

In terms of whether it is disappointing to receive an audit report that says we have some shortcomings, of course it is, but we have managed to work with our people and be very clear about the fact that the outcomes we are trying to achieve are better outcomes for our clients. We have a job to do, and we need to make sure that we improve in these spaces where we have had findings as well.

THE CHAIR: What staff turnover has occurred since your commencement in February?

Mr A Hughes: I would have to take that on notice, but there has been some level of staff turnover.

THE CHAIR: How many accepted compensable psychological claims have been lodged since your commencement?

Mr A Hughes: I am not aware that we have had any compensation claims for psychological conditions lodged since I started.

THE CHAIR: Are there any that might end up being such a claim, an approved claim?

Mr A Hughes: I am not aware of them, Chair, but one can never say there will not be claims lodged.

THE CHAIR: On the theme of a positive workplace culture, as an example, if a senior public servant in your workplace was reported to be yelling at a subordinate, would you consider that acceptable conduct?

Mr A Hughes: No, I would not.

MR BRADDOCK: You mentioned a workforce survey. What were the findings from that survey?

Mr A Hughes: The employee survey was the whole of ACT public service staff survey.

MR BRADDOCK: Do you have the details down to the Public Trustee and Guardian level?

Mr A Hughes: We do, yes.

MR BRADDOCK: What were the findings?

Mr A Hughes: The findings range across a number of areas and categorisation of those results. They go to the motivation and engagement measures and other measures of our people. They ask questions about future intentions—whether people are intending to move on from their role or whether they are happy where they are. Those results put us largely on measure with our directorate and more broadly with the ACT public service as well. There was not a great deal in there that put us outside what are those benchmark measures. Certainly, those give us an opportunity to benchmark and say, “Here are areas where we can improve.”

Can I come back to the question? If that is indeed a report that has been received, to put it on the public record, my strong encouragement would be for that individual to use the complaint processes that we have in place to report that conduct.

MR BRADDOCK: Thank you.

THE CHAIR: I have a question regarding the charitable fund the GreaterGood. Why

is there such a slight reference to GreaterGood in your 2022-23 annual report given its significant role in the management of the Public Trustee and Guardian?

Mr A Hughes: The Public Trustee and Guardian is the trustee for the GreaterGood arrangements. Certainly, in other avenues and on the GreaterGood website, that is where the outcomes and the work of that GreaterGood charitable foundation are reported. We have included in the annual report elements there and some of the distributions that have occurred under the GreaterGood arrangement. You will appreciate, Chair, that this is my first annual report as the Public Trustee and Guardian, so it is my intent to look at what we can do going forward to report in relation to the GreaterGood arrangements. But we feel that we have captured the financials and the work of GreaterGood in the financial year in the report.

THE CHAIR: Do you actually seek bequests for the GreaterGood?

Mr A Hughes: Seek bequests?

THE CHAIR: From estates or people who are drawing up wills.

Mr A Hughes: No. With the way that the GreaterGood operates, we certainly have a will-drafting service for the community; legal practitioners across the city, of course, are also drafting wills; and people can draft their own will, of course. The GreaterGood promotion is basically to get out there and try and provide people with an option if they were thinking about a bequest, and give them an option in terms of where they may be able to donate money, indeed, before they pass away, because the GreaterGood arrangements can operate in that way. But we do not go out and do any more than promote the information and the availability of this option for people.

DR PATERSON: With your key performance indicators, one is an examination of accounts. Firstly, is there a yearly requirement to examine accounts or is that a reporting requirement?

Mr A Hughes: The order that the tribunal issues, and the law that governs that order, says that, where a private financial manager is appointed, on the anniversary of that order, they are required to submit accounts to the Public Trustee and Guardian. That is what triggers the anniversary and that is an annual process that we conduct.

DR PATERSON: We have had discussions in previous hearings about how that reporting has not been up to scratch. In your annual report, the examination of 600 accounts was budgeted for. Would that be the extent of everyone's account? Is that the whole 600 accounts?

Mr A Hughes: That is the total number of examinations that have been completed. That is probably not the same number as the total number of people who are under an order. I would need to take it on notice and give you the most up-to-date numbers in that space. The orders are for three years, so in some cases we may not receive examinations on time. We may receive many examinations all at once. The number of examinations that we get through is actually contingent on what private managers give us and in response to things that we do—reminder letters that we send and other bits and pieces as well.

We can certainly give you the total number of private managers who we think are operating in that space, and we are certainly working with the tribunal on data in that space as well.

DR PATERSON: Has anything more been done, given it has been highlighted as a significant issue? Is it not mandatory that they report back each year?

Mr A Hughes: It is mandatory. If a private manager does not report or we do not receive that information—you will have heard in previous hearings that we do have a level of backlog in this space at the moment, which we are working through. Hopefully, by the new year we will be in a much better position to understand exactly where we are at in terms of due examinations.

Where we do not receive the annual accounts that are required by law, that triggers levels of reminders from us. Of course, if we do not receive it at all then we go to the tribunal and say we have not received it. That may trigger some sort of revocation or review of that order.

DR PATERSON: Given the significant issues in this space, do you think that, rather than just a reminder notice, there need to be fines or something tougher to ensure that people do actually report?

Mr A Hughes: I think the system is contingent on us completing the examinations and getting that information back to the tribunal. If a private manager is not submitting their accounts, then it really is for the tribunal to review what that order is and what is the appropriate path from there.

Our role is not that of the regulator of this space. The law sets us as the examiner of those accounts. We are kind of providing a service to the tribunal and to private managers to make sure that this information is being provided. Where it is not provided to us, certainly, we need to refer that to the tribunal very quickly and the tribunal is then in the space to call that private manager and say, “What’s going on? What is the issue?” That may well be where that question about whether there should be sanctions in that space would be played out.

MR BRADDOCK: I am trying to understand the terms of the work to develop what you call a revised technology strategy, in terms of the timing, particularly, with the next audit. What is the process there and when do you think you might have that strategy in place?

Mr A Hughes: That piece is covered in the audit recommendations as well. We have set this financial year, 30 June 2024, as our final date by which we need to have that in place. We certainly expect that technology plan to be informed by not only the financial management services audit that has been completed but also the work that the Auditor-General has underway at the moment, which is much more focused on technology and infrastructure projects.

We are also seeking for that plan to be informed by work that is happening across the broader ACT public service, the platforms that we may be able to leverage and levels

of review of the systems and modules that we have deployed as well, and how effective they have been in terms of our work.

THE CHAIR: Can you provide the committee with an update on the progression of your implementation of the recommendations of Auditor-General's report No 3 of 2023—*Financial management services for protected persons*?

Mr A Hughes: I can certainly go through those.

THE CHAIR: We probably do not have time to do that.

Mr A Hughes: That is right. Perhaps I will take it on notice because we did provide quite a detailed update to the standing committee that looked at the audit report. We can certainly provide an update in that space.

THE CHAIR: Thank you. Since some of the implementation, how has that affected the output of the office? Have there been any noticeable changes?

Mr A Hughes: You will recall, Chair, that that audit was ongoing for 16 months. We were certainly aware of some findings by the Auditor-General's office before they were finalised in that report. You will see in the government response that there are pieces that we have been able to identify as having already been completed. I think there were about seven recommendations that were already completed by the time that audit report was finalised.

Those were things like where the auditors had looked at files and identified samples where we had some percentage of noncompliance or records that needed to be improved. We have addressed those as we have progressed through. The other recommendations are more substantive. They require a level of engagement outside the Public Trustee and Guardian or they require us to review a process fairly significantly. Those are the pieces that are taking a bit more time. In terms of the simpler process and the simpler recommendations, we are seeing the team take those up and start to work through better ways in which we can achieve that work.

THE CHAIR: Have you made a submission to government for any legislative change?

Mr A Hughes: No.

THE CHAIR: On behalf of the committee, I would like to thank you both for your attendance today. If you have taken questions on notice, please provide answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you very much.

Appearances:

ACT Official Visitors

Dzwonnik, Mr Stefan, Executive Officer, ACT Official Visitors

Muir, Mr Peter, Chair of the Board, ACT Official Visitors

Quinn, Ms Vicki, Aboriginal and Torres Strait Islander Official Visitor for Corrections

THE CHAIR: We now welcome witnesses from ACT Official Visitors. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered to be contempt of the Assembly. Please confirm that you each understand the implications of the statement and that you agree to comply with it.

Mr Muir: I have read and acknowledge the privilege statement.

Mr Dzwonnik: I have read and acknowledge the privilege statement.

THE CHAIR: We will go straight to questions. The Mental Health Official Visitors reported that they had received complaints relating to the staff response to a suicide attempt. That is on page 11 of your annual report. The annual report references a suicide attempt under the mental health section of the report. Are you able to share more details about that, such as the circumstances around it and if procedures and policies are being modified to improve the response to a situation in the future?

Mr Muir: For the committee's reference, I have only just taken over as the chair, about a month ago. So we will take that question on notice and come back to you.

THE CHAIR: Thank you.

DR PATERSON: I have had concerns raised with me about Justice Health and about healthcare provision within AMC. Have any issues come up through Official Visits that would be worth raising here in this forum?

Mr Dzwonnik: Our colleague Vickie Quinn should be joining us.

Mr Muir: She is from Corrections and can answer that question for you.

THE CHAIR: I guess you could take it on notice and, if Ms Quinn appears, she can answer that.

Mr Muir: We will get the details. Part of my activities as the chair is certainly to meet with all the relevant stakeholders. I have met with the Director-General of the Health Directorate this week and am working my way through to Justice Health to talk with them. The purpose of that is to understand systemic issues. Part of the board's remit is to identify systemic issues and certainly that is on my agenda. But I think we will have to take the specifics on notice and get back to you.

MR BRADDOCK: Part of the annual report talks of deaths of people with disability

in supported accommodation. I am trying to understand that death review function and its dependency on the federal government and what is required in order for that function to be able to exist.

Mr Muir: This is an issue that I am working through. Both the Official Visitors in Disability that I have met with independently raised this issue with me as the incoming chair. It is an issue that I certainly am keen to look at. I think we have got to look at the relationship with the NDIS Quality and Safety Commission, and we certainly have to have some discussions with them. Part of the issue from our perspective is visibility and the territory not necessarily being aware of all of those deaths. Some of those deaths may be from natural causes. It is at this stage a question of we do not know and do not have sufficient visibility of those.

MR BRADDOCK: Is it the case that we are totally reliant on the federal government to be able to share that information with us so that we have visibility, or is there some other factor that is preventing us?

Mr Muir: From my discussions with the Official Visitors that I have met with it is that we are not necessarily being notified of those deaths. To step back, we have got a large growth in visitable places in the disability area with the growth of the NDIS. We have been working with the Community Services Directorate to make sure that the visitable places register is as up to date as we can make it. Once we have visibility of those—and we certainly have got an ambitious task to make sure we are getting to all of those; there are over 300 visitable places for disability at the moment—what we want to do is make sure is (a) we understand where they are all are and (b) that we are getting to them. Then I think there is the question of what are the gaps that we are not being told about it—and should we be. That is probably a question as well.

MR BRADDOCK: The Coronial Court is an ACT government functions. Is there a relationship between the Official Visitors and the Coronial Court at least?

Mr Muir: That office is on my list of people to visit to have that very discussion.

MR BRADDOCK: Good luck.

THE CHAIR: My question is about the Corrections complaints now. Between 2020 and 2023, complaints about the Corrections system have increased year on year—and I can reference annual reports and various page numbers if you need them. New complaints for this year included complaints about the implementation of the new incentives and earned privileges policy. A case study in the Official Visitors annual report 2022-23 gave an example of where Corrections staff initially declined to act on a complaint and only did so after the Health Service Commissioner got involved.

We seem to have about 3.5 complaints per detainee and, as the detainee population has shrunk, complaints have increased. Do you have any insights as to what might be driving this increase and any factors involved with that?

Mr Muir: You might need to repeat the question. I understand Vickie has just managed to get on. Can you hear us, Vickie?

Ms Quinn: Yes. I do apologise. I was sitting on the Webex link by myself for some time. I just thought there was a delay in proceedings. I have only been able to join now with audio. So please proceed and direct any questions to me that you would like answered.

THE CHAIR: I was talking about the increase in the number of complaints. We seem to have about 3.5 complaints per detainee and, as the detainee population has shrunk, it seems that complaints have increased. I am just wondering what you have concluded as to what is producing that? What insights have you about what is driving this increase?

Ms Quinn: In the annual report, the increase will be around awareness of the Official Visitor role. The detainee population can be quite sceptical on who they work with, and for that annual report period we had a consistent Official Visitor population staff workforce. So I believe it would be trust gathered for the Official Visitor and their role.

THE CHAIR: Do you have a breakdown of the complaints you received about Corrections that you can provide to us?

Mr Muir: We will take that on notice.

THE CHAIR: Page 18 of the report has an issue where the Incentives and Earned Privileges policy appears to have affected the frequency of lock-ins for women detainees. Can you elaborate on that?

Ms Quinn: Yes, I can. The women's area has four cottage accommodation areas, and one of those cottage accommodation areas is WR2. WR2 is traditionally used for women that are on discipline of some kind. When those women have to have their hour out of the cells in that area, the other women have to be locked in, because there is no fenced area between the two. That includes women that are on the Incentives and Earned Privileges program.

Additionally, anyone who is on the enhanced side of the Incentives and Earned Privileges program—and there is currently only one woman on the enhanced—has access to things that the other detainees do not. Again, due to fenced areas and lack of ability to separate detainees, it has impacted the women on the Incentives and Earned Privileges program.

THE CHAIR: On the same page, in one case study the Official Visitors investigated a complaint about detainees not being able to obtain certain food items. When the complaint was raised, Corrections staff insisted there was nothing they could do about it. Could you explain what happened there and how that was resolved?

Ms Quinn: Certainly. The Corrections officer that felt they could not do anything about it was just a standard officer on the ground; so it had to go higher to management. We did involve, I think, the Human Rights Commission, and they negotiated with Corrections. Corrections have agreed to get a corporate credit card that they can use for emergency buy-ups, and they also sourced additional providers for some of the foodstuffs that comes in. Previous to that, they only had one provider

with New South Wales and now they have further providers. I understand that the corporate card has now been purchased. I know we are talking about the last annual report, but this last quarter I have not received any complaints on the same issue.

DR PATERSON: Ms Quinn, my question also relates to Corrections complaints. I spoke to Minister Gentleman and Corrections officials in the hearing earlier this week around what they are doing in terms of prevention of sexual violence within AMC. I was wondering if any of the complaints that you receive are around sexual coercion or violence?

Ms Quinn: I do not believe there are any in the annual report period. I would have to take that question on notice to answer it fully and completely. As for what Corrections are doing about it, that would be for them to follow up with and answer.

DR PATERSON: Do you see this as an issue within AMC?

Ms Quinn: There have been incidents of sexual violence within AMC amongst the male population, yes.

MR BRADDOCK: Going back to disability again, I was just interested in whether there any themes from what Official Visitors have found as part of its inspections or complaints received.

Ms Quinn: Within the Corrections space for disability?

MR BRADDOCK: No, disability space.

Mr Dzwonnik: What page are you referring to?

MR BRADDOCK: The question was more in the broad of: within the disability sector, particularly the live-in sector, are there any themes that you have discovered? I notice on page 11 it say that you have received a number of complaints, but I am just trying to identify what the main themes are.

Mr Muir: In terms of the themes, we will take that part on notice. As part of my role as incoming as chair, certainly some of the things they have raised with me are service providers not understanding their obligations. Certainly in the NDIS, there has been a really significant growth in service providers moving into the territory. As I said to you in a previous answer, we do not necessarily have complete visibility of those. Someone could start a package, for example, and move into a residence that is a visible place, but service providers may not necessarily know their obligations, because you have a myriad of providers, some in the for-profit area and some in the not-for-profit area. That is one of the ones they have raised with me. We have also discussed the issue of deaths.

Mr Dzwonnik: I would also say that Disability OV's have also identified quality of housing stock as being an issue.

THE CHAIR: Page 22 of your report details issues of housing quality, as we have just touched on. They have seen several properties which are of poor standard and

require significant maintenance, and repairs and maintenance requests are slow to be actioned by the organisations responsible for the property. That is from page 22. Can you tell us about some of the properties you have seen that led to putting housing quality as one of the systemic issues?

Mr Muir: I will take that on notice for the Homelessness Official Visitor and give you an answer on that.

THE CHAIR: In cases where you have advocated for residents in these sorts of properties, what sort of response have you seen from the government?

Mr Muir: We will take that on notice.

THE CHAIR: Do you have any insights as to why the response times from organisations like Housing ACT can be so slow?

Mr Muir: We will take that on notice.

THE CHAIR: Have you seen any examples of the government downplaying or not taking seriously the health and safety concerns of tenants living in their properties?

Mr Muir: We will take that on notice.

THE CHAIR: Before we finish, is there anything you would like to add?

Ms Quinn: Were there any questions taken on notice earlier in the proceedings when I could not get online adequately that I may be able to answer now?

THE CHAIR: There were, but it is probably not worth re-asking them and seeing if people know.

DR PATERSON: I have a question. In terms of your new standing on the board, what do you see as the key issues that you would like to be addressing within the next year or so?

Mr Muir: They are probably divided into a number of issues. Firstly, there is the governance of the board. I am the first independent chair of the board. So I am really just casting an eye that the board is fulfilling its responsibilities under the act and that making sure that we have a handle on all of those and that we can show that we are meeting all of those. Hopefully, it will be part of the next year's annual report to show how we have done that.

In terms of the more substantive issues that we are facing, one is getting a more complete visitable places registers. We have done a lot of work with the directorates, but there is still more work to be done to ensure that we have full visibility. But that work has been going well over the last year, so I am not anticipating any blockages or issues in that area.

The people that we deal with are moved between categories quite fluidly You will have people who move from a Corrections environment to the mental health space to

homelessness and even disability. The question in my mind at the moment is: how do we serve the needs of those people best? To that end, for example, we are seeking advice on the ability of Official Visitors to share information. That is certainly one issue that we would like to see resolved, so they are in a better place to have open discussions around the people they are serving without any legislative barriers to sharing information. They are some top-of-mind issues that I think we are facing at the moment.

THE CHAIR: Thank you. On behalf of the committee, I would like to thank witnesses for your attendance today. If you have taken questions on notice—quite a few—please provide your answers to the committee’s secretary within five business days of receiving the uncorrected proof *Hansard*. Thank you for your time.

Short suspension.

Appearances:

ACT Human Rights Commission

Mathew, Dr Penelope, President and Human Rights Commissioner

Griffiths-Cook, Ms Jodie, Public Advocate and Children and Young People
Commissioner

Toohey, Ms Karen, Discrimination, Health Services, Disability and Community
Services Commissioner

Yates, Ms Heidi, Victims of Crime Commissioner

THE CHAIR: We now welcome witnesses from the Human Rights Commission. I particularly welcome Dr Mathew. Congratulations on your appointment.

Dr Mathew: Thank you very much.

THE CHAIR: I think this is your first public hearing.

Dr Mathew: It is my first public hearing here, yes.

THE CHAIR: We hope that it does not lead you to regret being the commissioner. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered contempt of the Assembly. Could you each please confirm that you understand the implications of the statement and that you agree to comply with it?

Ms Griffiths-Cook: Yes, I do.

Dr Mathew: Yes, I do.

Ms Toohey: Yes, I do.

Ms Yates: Yes, I do.

THE CHAIR: Thank you. We are not taking opening statements, so we will jump straight to questions. I refer to the infographic on page 24 of the annual report. The commission appears to have received 1,147 complaints and 2,362 enquiries, including 43 complaints from vulnerable people. Seven per cent of complaints were made by Aboriginal and Torres Strait Islander people, which represents about a 4.6 increase. How does this year's number of complaints compare to previous years? Does it represent an increase or a decrease? Are you aware of any factors that have contributed to that status?

Ms Toohey: The numbers this year are broadly comparable with last year. As you may recall, over the period of COVID, the lockdowns and the pandemic, we did see an increase in complaint numbers coming in. It has gone up about 70 per cent over the last four years. In terms of the reasons for that, I think as we discussed before, particularly during the COVID period, there was an increased awareness of the commission's role and of the nature of complaints that we could take. We have been pretty persistent in that in terms of making sure that we are getting out to communities.

We are advertising in the press and advertising on the radio and making sure that people are aware of their rights and their responsibilities under the legislation. So, broadly, the complaints have plateaued this year, but that is following a number of years of increase.

THE CHAIR: Thank you. In what jurisdictions were the highest number of complaints concerning?

Ms Toohey: As you know, we have a wide number of jurisdiction of complaints that we deal with. Health services is still the highest number of complaints—and I think there is a table on page 34 that outlines that. Discrimination is the next biggest area. Within discrimination, disability would be the largest area of complaint. Then, as you can see, there is quite a significant drop off to the other areas of complaint that we deal with.

THE CHAIR: What sort of feedback do you provide? You mentioned health services. Are there things you have observed that you feel would be valuable to feed back into that part of our government?

Ms Toohey: Yes, certainly in a number of our health service complaints—and we take health service complaints about public and private health services as well as about individual registered practitioners. If a matter identifies systemic issues and we have concerns about a policy or procedure, we will make recommendations back to the directorate about that, or back to the service, and we will give them a time frame to come back to us to report on the outcome of that.

THE CHAIR: I have a final one on that graphic. So 85 per cent said the process was fair. So I guess that means that 15 per cent thought it was unfair. Any ideas on why they might conclude that?

Ms Toohey: We get feedback from complainants and respondents. Sometimes it is people's perception of how a matter has gone. For example, if a matter does not settle through conciliation, people might have a perception that perhaps the process has not been fair in terms of the outcome that they have got. That is an ongoing piece of work for us: making sure that we are providing a fair and accessible process to people.

THE CHAIR: Thank you very much.

DR PATERSON: My question is for Victims of Crime Commissioner. I have had some issues raised with me around section 375 of the Crimes Act, the summary disposal of certain offences from the Magistrates Court—an offence punishable by imprisonment for a term not exceeding 10 years. A lot of sex offences that could be pretty extreme may fall under that 10-year bracket and have been heard in the Magistrates Court. We do only have two courts here in the ACT—so there does need to be a line somewhere, I guess. Do you think the way we are balancing our system in terms of where these offences, some of which could be pretty serious, are being heard?

Ms Yates: I know there has been some discussion of this issue in the context of preparation of the *Listen. Take action* report that was handed to government in

December 2021 as a result of the Sexual Assault Prevention and Response Program. It addressed this issue in the context of a recommendation that the ACT consider looking at maximum penalties across all sexual offences in the ACT. That was on the basis of evidence-based research which indicated that our maximum penalties across a range of sexual offences were notably lower than our surrounding jurisdiction, New South Wales, but also a number of other jurisdictions.

As you referenced, that maximum penalty can have an impact on where a sexual offence proceeding is heard, whether it be the Magistrates Court or the Supreme Court. I have been glad to see both the Chief Magistrate and the Chief Justice engaged in recent conversations about how we might improve the responsiveness and timeliness of the court's engagement in these matters across both the Magistrates Court and the Supreme Court. But I absolutely support that *Listen. Take action* recommendation that calls for us to look across the board at that maximum penalties issue, which would in the course of that review, pick up this issue of which matters are held in which court.

DR PATERSON: Some of these notices of disposal relate to specific offences. Do you think benchmarking on sentence range is the most appropriate way of doing it or should particular crimes which are deemed—because we have had many debates in hearings around maximum sentences and they do not seem to have any implication on the sentences actually given. Burglary, aggravated burglary and those types of crimes are noted specifically for referral, so I am wondering if it is about specific crimes rather than sentences.

Ms Yates: You make a really good point. Certainly, from the Canberrans that we work with, we know that issues like maximum penalties are not in any way a reflection of the level of harm that people might experience as a result of an offence type. I think the Canberra community would be quite surprised to learn about the types of offences that are heard in the lower court as less serious—non-indictable offences, including crimes like incest, which we would expect to perhaps be heard in our higher court.

Maximum penalties, even if they do not reflect average sentences, are one of the main ways that the legal system identifies seriousness of crimes, so certainly the broader issues can be looked at. I would welcome, of course, acknowledgement of the gravity of harm as an indicator of seriousness of offending, but I think all these matters could be picked up in implementation of that SAPRA report recommendation.

DR PATERSON: Thank you.

THE CHAIR: Mr Braddock.

MR BRADDOCK: Ms Yates, in a previous inquiry you mentioned how there were multiple victims of crimes databases, not all necessarily all managed by you. I hope you could give us an update as to whether you have achieved consolidation.

Ms Yates: Is that in relation to the victims registers, Mr Braddock?

MR BRADDOCK: Yes.

Ms Yates: Certainly. We were very pleased, in the reporting period, that in November Victim Support received transfer of the adult victims register from Corrective Services, and in May we received the victims of young persons register from the Community Service Directorate. We are still awaiting transfer of the affected persons register. To put that in easier to understand terms, the three registers address the needs of different types of victim-survivors: victim survivors of crimes perpetrated by people over 18; victims of crimes perpetrated by people under 18; and people who are victims of crime in a broader sense—people who have been found not guilty due to mental impairment and may, following a criminal proceeding, be referred to the ACT Civil and Administrative Tribunal for some kind of conditional release order or supervision order. It is important in those matters that the views of victims of crime and community safety concerns are being considered by ACAT. The final register, the affected persons register, has not yet been transferred to Victim Support. We are in the final stages of fine-tuning a highly technical MOU in collaboration with our colleagues at the tribunal.

In terms of the impact of bringing those registers into the Human Rights Commission, in the first six months we saw a 50 per cent increase in the number of people choosing to register on the adults register. Regarding the community which previously did not necessarily feel comfortable giving their personal details to Corrective Services—they saw it as an offender-focused institution—now that we hold that register, we are able to provide them with the information and support that they are entitled to under the victims charter, in the context of the term of an offender serving a sentence. They feel much more comfortable registering and knowing they will be contacted by Victim Support ACT when it comes time to, for example, give a submission in a parole hearing or receive information about end of sentence.

MR BRADDOCK: To clarify, once you have all those three together, there are no other registers sitting somewhere in the ACT government?

Ms Yates: Correct, Mr Braddock, as best we know.

THE CHAIR: Referring to page 41 of your report, which sets out the grounds in discrimination complaints submitted to the Discrimination Commissioner, could you explain any trends that are present in this data and the work, if there is any, the Discrimination Commissioner is doing to address those trends?

Ms Toohey: Yes. Broadly, Mr Cain, as you can see, disability is generally the highest area of complaint that we get, and that is across a range of areas: employment, education, and goods and services. Race, as you can see, is the next biggest area, and that broadly goes across all areas that the legislation covers. We do quite a bit of work both through promoting rights, directly by going out into community, and through things like advertising and promoting safe and inclusive communities through radio ads and print ads.

We also work through a range of activities that government is undertaking through a number of the consultative committees, including the Multicultural Advisory Committee and the Disability Reference Group, to ensure that people in the community understand their rights but also understand their obligations. Broadly, over the next six months, we will certainly do some work. As you may be aware, a bill was

tabled earlier, bringing in the human rights complaint mechanism, so that will give us a great opportunity to go out to the directorates and to government more broadly to talk about their obligations to do with human rights, particular around the right to equality. There is a fairly broad range of work that we do to try to promote people's understanding of their rights under the legislation but also their responsibilities.

THE CHAIR: Thank you. Finally, as noted on that page, there were 25 instances of a financial outcome. What is an example of a discrimination complaint in other categories that might end up with a financial outcome?

Ms Toohey: For example, where someone's employment has been finalised particularly on the ground of disability. We see that occurring, unfortunately, too frequently. That might include a claim for damage as well as a claim for economic loss. Some of our sexual harassment matters will settle for financial outcomes. Sometimes financial outcomes are about the reimbursement of costs that someone has perhaps incurred or even legal expenses associated with other activities that they have undertaken to try to get redress for the particular issue. The financial outcomes will often arise in circumstances where there has been damage and the respondent acknowledges that and is a component of a settlement.

THE CHAIR: Thank you.

DR PATERSON: My question is for the Public Advocate. I have asked questions about this before, around the requirements for your office to review mental health orders. We have discussed, in this or similar hearings before, how many reports your office receives and the level of documentation, and that you felt you were not sufficiently staffed to address the reviews you need to undertake. Do you still feel that way?

Ms Griffiths-Cook: I was really pleased to receive some additional resources from the government in the current reporting period in response to, as you know, a few years of seeking those very resources. While I was fortunate to receive two additional resources, time will tell whether that is sufficient. It was less than the resources that I requested through that process. Having said that, I am certainly very hopeful that it will assist us to review more of those documents, not just for mental health matters but also for children and young people brought to our attention as the result of other circumstances.

DR PATERSON: In the two tables, at figures 22 and 23, there are a few things on seclusion and physical restraint that your office reports on. There seems to have been a complete switch from using seclusion practice to physical restraint. Was there a policy decision made somewhere that has made the data present like that?

Ms Griffiths-Cook: Not that I understand. That is an interesting one that we are continuing to monitor into the current reporting period. Certainly, as you saw, over the last couple of years there has been a significant downshift, particularly in the use of seclusion, which is very pleasing to see, in fact. The physical restraint numbers have not gone up significantly but have certainly increased, and so keeping our finger on the pulse of that will be important moving forward. Ideally, we would certainly like to see those numbers reduce with time as well.

Obviously, the nature of a person's circumstances when they are brought into the in-patient unit under involuntary mental health orders means they are often escalated. Ideally, we would like to see increased use of the Safewards model to respond to people when they are escalated and see them approached increasingly compassionately, with a view to ideally seeing those numbers reduce over time.

DR PATERSON: I have a final question regarding figure 23. The number of people declining treatment has very significantly increased over the last three years. Do you have any explanation for why that might have occurred or what is going on there?

Ms Griffiths-Cook: Unfortunately, we do not get that actual data. Unfortunately, we do not get information explaining why those numbers are there. In this period, we will certainly be inquiring further to try to understand that, at least anecdotally. Unfortunately, the information that comes to us is often fairly limited in nature, in terms of the actual qualitative data. We draw those numbers from the number of compliance documents. We try to understand the reasoning behind that to the extent that it is possible. I do not have the ability to be able to respond to that and advise you of what the reasons might be, but that significant increase is obviously of concern, given the numbers are up from 102 to 261.

DR PATERSON: Is there any particular facility that you are seeing those numbers report from?

Ms Griffiths-Cook: My understanding is that the majority of those occur at the initial stage—and I could check this and take it on notice if you would like me to—of an emergency detention for three days. When someone has initially come in, they are usually quite escalated and have not yet had the engagement with the system to enable the de-escalation to transpire.

What we have clearly seen through the documentation this year is that the vast majority of reports that we get relate to an emergency detention for three days. We get that after the fact. We also typically get a release from emergency detention. Those things tend to go hand in hand. Only a moderate proportion go onto emergency detention for 11 days, and a smaller number would go onto a psychiatric treatment order. My understanding is that the majority of those figures relate to actions occurring within that first ED3 period, as we refer to it, and that it does reduce.

DR PATERSON: Thank you.

THE CHAIR: We have come to the close. On behalf of the committee, thank you all for your attendance today. I think there were some questions taken on notice.

Ms Griffiths-Cook: Could I query: did you want me to take that on notice and see if I could make further inquiries?

DR PATERSON: Yes. I would be very interested if there is any further information. That would be great.

Ms Griffiths-Cook: Sorry, Mr Cain.

THE CHAIR: Please provide such answers to the committee secretary within five business days of receiving the uncorrected proof transcript of the *Hansard*.

Hearing suspended from to 2.01 to 2.15 pm

Appearances:

Rattenbury, Mr Shane, Attorney-General, Minister for Consumer Affairs, Minister for Gaming and Minister for Water, Energy and Emissions Reduction

Justice and Community Safety Directorate

Glenn, Mr Richard, Director-General

Ng, Mr Daniel, Executive Branch Manager, Civil and Regulatory Law, Legislation, Policy and Programs

Pryce, Mr David, Deputy Director-General, Access Canberra, and Registrar-General

Chan, Ms Yu-Lan, Chief Executive Officer, Gambling and Racing Commission

THE CHAIR: Welcome back to the public hearing of the justice and community safety committee inquiry into annual reports for 2022-23. We welcome the Minister for Consumer Affairs and the Minister for Gaming, Mr Rattenbury, and officials.

I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Witnesses must tell the truth. Giving false or misleading information will be treated as a serious matter and may be considered a contempt of the Assembly. Please confirm that you each understand the implications of the statement and that you agree to comply with it when you first speak.

We are not inviting opening statements, so we will move straight to questions. Minister, I will remind you of an email of 29 November from you to the Head of Service. I will read out a key part of that.

Mr Rattenbury: Last year?

THE CHAIR: 2022, yes. Did I say 2023?

Mr Rattenbury: No; you just said 29 November.

THE CHAIR: The crux of this allegation is that the current fair trading commissioner inappropriately attended a meeting without declaring that she is married—

Mr Rattenbury: One moment, Mr Cain. I will call Mr Pryce to the table and ask Ms Cubin to leave the room for these purposes.

THE CHAIR: I am just reminding you. It was a while ago. It is that email.

Mr Rattenbury: Sorry, could you refresh my memory?

THE CHAIR: Yes. The crux of this allegation is that the current fair trading commissioner inappropriately attended a meeting without declaring that she is married to the former fair trading commissioner, Mr David Snowden. That is the email that is the subject of my first question. In budget estimates in July this year, you indicated you have been waiting for eight months to receive a response from the Public Sector Standards Commissioner, who I believe was included in that email.

Have you since received a response?

Mr Rattenbury: The last I checked I have not.

THE CHAIR: To an email from 29 November last year?

Mr Rattenbury: Correct.

THE CHAIR: Does that not strike you as very strange?

Mr Rattenbury: I am concerned by that, and we have on occasion sought to follow that up, but we have not yet received a response.

THE CHAIR: What sort of inquiries have you made of the Public Sector Standards Commissioner when you have been waiting for nearly 12 months for a response?

Mr Rattenbury: There have been follow-ups from my office. I do not have those dates to hand, but I could probably check—

THE CHAIR: Could you take those on notice, please?

Mr Rattenbury: Yes, I can.

THE CHAIR: You are a minister of this government. You have written to one of the most senior executives in the ACT government, and you have not had a response in 12 months, even simply to say, “Would you please update me,” or something; is that right?

Mr Rattenbury: We have sought to follow that up. I do not have ministerial responsibility for that office. They have agreed independence, so we are not able to influence them in the speed of their work.

THE CHAIR: Have you spoken to the Head of Service or the Chief Minister about this extraordinary delay?

Mr Rattenbury: Not directly that I recall. I will double-check that as well.

THE CHAIR: If any of your officials came to you and said they had been awaiting a response from a senior public servant and it was getting on for 12 months, surely, you would be astounded and would act on that quickly?

Mr Rattenbury: I agree with you, Mr Cain. I am frustrated by this, but I have no ability to influence the speed at which this somewhat arms-length work takes place.

THE CHAIR: It is not something that you have raised in cabinet, because it is really extraordinary?

Mr Rattenbury: It is not a cabinet matter.

THE CHAIR: As high-level consideration of what appears to be a significant slight

to you and your office; I am not sure why you have not raised this at the highest level.

Mr Rattenbury: As I have indicated, that particular function of government operates with some degree of independence. We have not wanted to seek to unduly influence them. We have referred the matter to them. The fact that they have not responded is not a matter that I have direct control over.

THE CHAIR: Do you recall that you wrote to me about this issue in your letter to me dated 9 February this year? You did not reference the fact that you had written to the Public Sector Standards Commissioner in that letter to me, when I was inquiring about this issue broadly.

Mr Rattenbury: Mr Cain, I cannot remember either your letter to me or my response to you in exact terms. It is not clear to me whether it was relevant to the questions you asked. I would have to go and check the correspondence to understand why that was not referenced.

THE CHAIR: You will take that on notice and get back to this committee?

Mr Rattenbury: What is the exact question? Why was there no reference in the letter?

THE CHAIR: Yes. Did you have a reason for not including your email to the Public Sector Standards Commissioner when you wrote to me, when I was inquiring about this very matter?

Mr Rattenbury: I will check that once I have reviewed the correspondence.

DR PATERSON: Minister, my question is in respect of the central monitoring system. Can you please provide an update on where that discussion is up to?

Mr Rattenbury: Yes, certainly. As we have probably spoken about before, the government has indicated our interest in pursuing that. I think we provided quite a detailed answer after estimates hearings, and laid out the rationale for that. The government is continuing to examine the merits of various approaches and undertake further detailed research. There have been ongoing discussions with a range of stakeholders. We are looking to finalise a decision on that matter and determine our forward direction.

DR PATERSON: This committee, the JACS committee, is conducting an inquiry on cashless gaming at the moment. There have been calls from stakeholders in this sector that there are so many technological changes at the moment, and lots of different trials and things happening. Is it the appropriate time to be progressing a central monitoring system about limits, given the whole industry, and around poker machines, seems to be quite in flux at the moment?

Mr Rattenbury: What is important is that the government looks to do a couple of things. One is to take an approach that does seek to futureproof any decision we make. I think that your observation around technology change is correct. We clearly need an effective harm minimisation strategy. I do not think we can delay on that. I am keen to

see further harm minimisation measures put in place as quickly as possible.

Certainly, as we indicated in the response to a question on notice, out of annual reports, a centralised monitoring system is seen as an underlying backbone to any measures we need to take. As we have outlined previously, every other jurisdiction in Australia has a centralised monitoring system; that forms the basis on which you can create a jurisdiction-wide approach. If you do not have a centralised monitoring system, the best advice I have is that if, for example, you went to cashless gaming—which your committee is considering—you would not be able to have a joined-up system. Somebody could have a cashless gaming account at one club and at another club, and those two would not talk to each other. That certainly opens up concerning questions about frictionless gaming, loss of a sense of perspective on how much money one has spent—those sorts of issues that I know you are very aware of, and we are trying to think about very carefully.

DR PATERSON: I agree with you that there is evidence on the central monitoring system for potential to do pre-commitment; but, in terms of bet limits, I think there is very limited evidence on that. In your response to me, you said bet limits must be designed into the game software of an EGM.

Mr Rattenbury: Yes.

DR PATERSON: We have had discussions about why a central monitoring system is needed to do that. If a central monitoring system was implemented without bet limits, would that reduce the cost of the implementation?

Mr Rattenbury: I do not have a specific answer to your question, but I can say that your observation is a fair and good one, in the sense that there are a range of scenarios by which one could approach this. That is the work that is being done by government at the moment. Having done all of that research and having looked at the range of technologies that are available, having talked to the industry and to other key stakeholders, we are now looking at making a decision on all of that information and looking at the best approach—one that delivers the harm minimisation outcomes we are after and potentially delivers efficiency to venues.

One of the attractive parts of a CMS—it is not a defining part—is that, by having that system, you can eliminate a lot of manual processes and make some administrative processes more efficient. There are a range of factors that are being considered in that context. The third part of that was doing it in the most cost-effective way. I think there is a recognition that there are benefits, but we have to weigh up the cost versus the benefit and think about not putting an unmanageable cost pressure on the venues.

MR PARTON: Following on from that, the talk of the central monitoring system, of course, has always been linked to the promise on the \$5 bet limits and the \$100 load-up limit. Of course, as we have discussed in previous hearings and in other conversations, you have not fulfilled that in regard to the pure PAGA promise. I am not personally displeased that you failed, because I always appreciated the complexity of this issue, seemingly much more than you did at the start of the process. But you seem to have done a lot of work in this space with no actual outcome. Where are we at in regard to the advancement of that promise of the \$5 bet limits and \$100 load-up

limit?

Mr Rattenbury: The best I can offer you, Mr Parton, is that we are making progress. I think it is fair to reflect that, with the impacts of the pandemic, the clubs had a very difficult time during the pandemic, so there was a slower start than we would have liked. But we are trying to ensure that there is a very considered approach because, going back to Dr Paterson's earlier question, any move in this space is a major move. I have been really clear with the clubs that I want us to make one move, not a move now and something else in 12 months time. I want to try and create a sense of certainty and a pathway—make a decision that sticks for a while and actually moves us forward in a way that delivers the harm minimisation outcomes we are after, but in a way that is affordable and long-lasting.

We have taken a bit of extra time to consider the matter. It is fair to say that, once we start to get into it—again, picking up Dr Paterson's earlier point—there is a lot of emerging technology and new ideas. Since we signed the PAGA in 2020, new ideas have come to the table, and I want to take those on board as well.

MR PARTON: It is a bit like the tram, really. Can I put on the record, as your opposite number in this space, that I am most pleased to hear the way that you answered Dr Paterson's questions in regard to lining up the cost of implementing anything as opposed to the benefits, and the impact that it is going to have on clubs. I certainly respect that position. It is not a position; it is just an acknowledgement from you on that. I have nothing else on that.

MR BRADDOCK: Is there a question here?

MR PARTON: No, not really. I have nothing else on that. I am happy to go back to you, Chair.

THE CHAIR: Mr Braddock?

MR BRADDOCK: We have seen a lot of scientific research about the health impacts that arise out of gas heating and wood-fire heaters. From a consumer affairs perspective, what is the ACT government doing to ensure that consumers are aware of those health risks?

Mr Rattenbury: This is an emerging issue, Mr Braddock. Certainly, a range of new science has been emerging. I think that has awakened a lot of people to considerations around these issues. I do not think people considered that having a gas cooker or a gas heater in their home was a health issue, but some of the data that has emerged recently particularly highlights the impact on children, and the increased incidence and aggravation of asthma considerations, particularly—a range of airborne pollutant issues.

To that end, I have recently written to consumer affairs ministers across the country, asking that we consider improved labelling and information standards through a consumer affairs filter, or consumer affairs pathway, to provide consumers with better labelling on products of the health risks that come from having these products in their home. I have sent that letter in the last six to eight weeks. I have not had responses

from other jurisdictions yet, but, with the upcoming consumer affairs ministers meeting, I am expecting to seek to carry that conversation forward.

MR BRADDOCK: That would have to be done at a national level or with cooperation from other jurisdictions?

Mr Rattenbury: I think it would be most effectively done at a national level. I do not think it is something that we can do as the ACT alone. I think it is the right policy direction for Australia and for consumers to have better access to information. But given both the smallness of the ACT and the way that the market works, I do not think this is something we could do alone. We do need that national cooperation.

MR PARTON: I seem to spend more time reading this agreement than some other people do: the power-sharing agreement commits—

Mr Rattenbury: I know, Mr Parton. I have a copy easily to hand.

MR PARTON: to a reduction in the number of EGM licences to 3½ thousand by 1 July 2025. Are you on track?

Mr Rattenbury: We have been making steady progress on the reduction of a number of authorisations. As of our most recent check, we are down to 3,790 authorisations in the ACT. As you might recall, we purchased a number back through the COVID period. We basically put an offer out there for clubs to retire them in return for a financial payment. A number of venues did take that up. It helped them with cashflow, frankly. They identified that it was beneficial and it served a number of purposes. That is where we are up to.

MR PARTON: Are you able to detail which clubs have surrendered the most licences? Is that information we can—

Mr Rattenbury: We certainly can. We may be able to do it right now or we might have to take it on notice. I will check with Mr Ng.

Mr Ng: Mr Parton, I do not have those exact details to hand right now, but I may be able to get them before the end of this hearing.

MR PARTON: All right. The final question that I have on this line is this: has the reduction in EGM licences actually resulted in a reduction in turnover across the jurisdiction?

Mr Rattenbury: No.

MR PARTON: What was the point, Minister?

Mr Rattenbury: The point is, over time, to reduce—the intent is to limit the number of poker machines in the jurisdiction. If we go back to the 2016-17 era, when the policy parameters were set to start reducing the number of authorisations, the ACT had, per capita, substantially more poker machines than any other jurisdiction in Australia.

The national average—and I have not looked at the numbers for a while—was about 11 per 1,000 people and the ACT was sitting at around 16, 17 or 18. I cannot remember now but it was materially higher. I think that is a concern because the research shows that access to poker machines is one of the harm risks for people who struggle with gambling.

MR PARTON: I understand that that plays out really well to a Greens voter base, but what about the actual outcome? How much money has been spent on buying licences back, and you just indicated to me that it has not made a skerrick of difference to turnover. When you talk about bang for buck in terms of harm reduction, you have no harm reduction at all here; this was just an exercise to make people believe that you were doing the right thing. The outcome is nothing.

Mr Rattenbury: I dispute the premise of your question. I think that it is one of a number of strategies that the government is putting in place to minimise the harm occurring to our community. It is also creating a longer term policy position that will not see a significant proliferation of machines across the city.

MR PARTON: But the turnover has not gone down at all?

Mr Rattenbury: It actually did, but that was pandemic driven, and for obvious reasons during the pandemic.

THE CHAIR: Following on from my earlier question, Minister, you have previously indicated that you accepted the advice from the Head of Service dated 6 February with respect to that query. The Head of Service looked into the matter and was satisfied that the actions of Access Canberra have been appropriate. Would you agree that your acceptance of that advice affirms the Head of Service's position?

Mr Rattenbury: I have accepted the Head of Service's advice, yes.

THE CHAIR: Can you confirm that the ACTPS code of conduct asserts that ACT public service employees, including statutory officeholders, must be proactive in identifying and declaring any actual, potential or perceived conflict? Can you confirm that is something that every public servant should abide by?

Mr Rattenbury: I do not have the code in front of me, Mr Cain, but I will accept that you are quoting it accurately.

THE CHAIR: Can you confirm that ACTPS employees are not required to declare conflicts of interest unless they are involved in a matter that is going before the courts? That seems to have been the view taken in this case.

Mr Rattenbury: I am reluctant to give a blanket answer to your question in the way it has been framed. I think that the code of conduct sets out a broad standard of behaviour, and it is a matter of individuals and agencies considering the circumstances to ensure that a conflict of interest is being appropriately managed. Of course, a conflict of interest can be managed in many ways, as I am sure you would appreciate, and it is for agencies to think about the most appropriate way to manage a conflict of

interest in accordance with the code.

THE CHAIR: You confirm your affirmation of the Head of Service's advice that there was nothing inappropriate about the then fair trading commissioner attending a meeting without declaring she is married to the former fair trading commissioner who was subject to a dispute over which she was presiding? The Head of Service seems to think there was nothing inappropriate, and you agree with that conclusion?

Mr Rattenbury: I asked the Head of Service to examine the circumstances. I wanted to ensure that there had been appropriate conduct in the public service. That is my job as minister. One of my jobs is to ask those questions. The Head of Service is the most senior person we have to consider those matters, and that is the advice she gave me.

THE CHAIR: And you accept that advice?

Mr Rattenbury: Yes, I do, because I—

THE CHAIR: Why would you write and ask the question if you were going to accept the advice that the action was appropriate? You asked a question that appears to ring all sorts of alarm bells.

Mr Rattenbury: Because there was a set of circumstances, and I wanted to ensure that the ACT public service had fulfilled its obligations.

THE CHAIR: As you know, the circumstance was that the fair trading commissioner did not declare she was married to the former trading commissioner while presiding over a dispute involving that person, who was her husband. That is the fact. The Head of Service says nothing inappropriate happened. How can that not be inappropriate?

Mr Rattenbury: Given that it was advice from the Head of Service, and she will appear before these committees, or the committee can ask her to appear, you might want to ask her why she formed that view.

THE CHAIR: That may well be the case. Dr Paterson?

DR PATERSON: Thank you. My question is with respect to the gambling incident register. I have asked the same question every single hearing for three years around the recording and transparency of the data in the register. I put questions on notice and what interests me, and I have raised this before about questions on notice, is that the top four venues are in one club group, which we have discussed, and everyone else has significantly fewer incidents registered. There is a real discrepancy between one club group and others, and we know why. Either one club group is doing it right and others should bring up their standard of reporting or they are over-reporting and perhaps do not need to report that way. But, either way, the discrepancy says to me that the system is not working. I am troubled that, three years on, we are still in exactly the same position. Is anything going to be done about this?

Ms Chan: I acknowledge the privilege statement. Thank you for the question. We have previously discussed that the incident register and the gamblers exclusion register is the same database. Since the launch of the new database last year, there is

much better clearness of information about exclusions and excluded people. In terms of the incident register, as you pointed out, there is a discrepancy with different venues—the approach they take to reporting incidents and what they record. That is something we have been looking at. We are aware there is a discrepancy as well, and that is not something that we would like to see.

We use information such as that to adjust our training. We run training for gambling contact officers. Part of that is about the signs of gambling harm and the public health approach to gambling harm prevention, but part of that is also about what they should be reporting, how to use the incident register, what to record, and how to use the record amongst their staff teams to help protect their patrons. We use it for a number of different adjustments to the training that we have made.

Each club group makes its own decision. We have been talking to them. This is part of the reason that we are also rolling out training or information sessions to club boards. We have held three sessions this year and we will continue doing that in the new year. We had planned to do that before COVID, but it was stopped due to the public health emergency. The purpose of the engagement with club boards is to help them understand the public health approach to harm prevention; help them understand what gambling harm can look like—that it is not just one individual and it is not just about financial harm; help them to understand the full picture; help them understand the role of the club as a licensee in preventing that; help them as a board to understand what their regulatory obligations are; help them as a board as well, because they can set the culture and strategy, to understand what a good gambling contact officer will do; help them to understand how they can best support their staff; and prompt them to think about the kinds of reporting or discussions they might want to hold as a board to ensure that they are receiving assurance about the processes and procedures amongst their staff in their venues. We take a multifaceted approach to some of that. We would also like to see more consistency in how the database is used.

DR PATERSON: Because it is reported by law, they have to report incidents in venues, so are proactive steps being taken with venues, which are not the club group at the top, to address this so that their reporting starts to align with the other club group?

Ms Chan: As we start to go back to more normal business as usual after the pandemic, that is on our program to resume. We used to do venue visits very regularly. Those dropped off a bit as venues were busy and as we had to adjust our operations in terms of education and how we gave our education. That is something we are looking at for the new year, as well as working with the boards and seeing what else we might do on the ground with the floor staff.

DR PATERSON: In a similar vein, I put these questions on notice every time. The last question on notice that I received—I am trying to find the number—looked at the breakdown of the different signs of gambling harm recorded in these incidents and the actions that were taken. This is really useful data and I have asked the minister multiple times why this cannot be included in annual reporting, because I think it is transparent if it is a requirement by law to report gambling incidents. I cannot understand why this is not made public and why questions on notice have to continue to get the data out there.

Ms Chan: The reporting for that is to ensure that the signs of gambling harm are being monitored for and it enables us to check, as you said, which venues are more proactive or perhaps less proactive in monitoring that so we can work with those venues. In terms of releasing the raw data, part of the risk would be that a particular venue might attract a reputation as being somewhere that attracts problem gamblers or somewhere good for problem gamblers to go. The raw data has risks around that. We have a year's worth of data, clean and proper data, in the database about the excluded people. We are considering what research might be considered and what we could do that might actually provide some more transparency and get a report out there without simply releasing the raw figures to be interpreted without context.

DR PATERSON: The figures that you have released through questions on notice are not troubling or venue-identifying at all. They are actually really informative and helpful and interesting. I would hope that there would be consideration in future annual reports that the gambling incident register data could be meaningfully reported to the community. Thank you.

THE CHAIR: Mr Braddock.

MR BRADDOCK: Can I please have an update in terms of disseminating information about gambling harm in languages other than English?

Ms Chan: We ran the Gambling Harm Awareness Week campaign very recently. The week of 16 October was the week for this year. Last year, the commission released information on its website in 14 different languages. We have also provided a link to Gambling Help Online, which has further information in other languages as well. Our website has information about how to seek interpreter support. It also notes that, if you contact the ACT Gambling Support Service, support will also be available to you through that service in other languages, whether it is through an interpreter or through translated materials.

In terms of Gambling Harm Awareness Week this year, we had a particular focus based on analysis of ABS data on the Indian community and the Chinese community, being the two largest community groups one could look at. For the Indian community, because English is largely lingua franca, we had English-language materials but they were targeted to particular social media channels that would reach that community. For the Chinese community, we had Mandarin produced materials, again based on ABS data, and that was put out through particular social channels as well.

MR BRADDOCK: Did you do any analysis on the effectiveness of those comms?

Ms Chan: We are still waiting for that analysis to come in. We know very broadly that social media posts, for example, as a whole, were quite successful this year. We had almost double the number of shares by partner organisations than we had last year. This year, we know that unique visits to the GRC gambling help learning page numbered over 600. That is a 100 per cent increase on last year's campaign, which was in itself a significant increase on the 2021 campaign. I do not have any further figures at this point. We are still waiting for some of that to come through.

MR BRADDOCK: Thank you.

THE CHAIR: Mr Parton.

MR PARTON: Thank you, Chair. Minister, are you able to update us on the Community Clubs Ministerial Advisory Council—how many times has it met and what are the actual outcomes?

Mr Rattenbury: Thanks, Mr Parton. The group continues to meet, I think members are aware, but it is a mixture of people from the clubs industry. We have what I have listed as far as the two umbrella organisations go, ClubsACT and Canberra Community Clubs, as represented, and a number of individual clubs, and then we have some harm minimisation advocates, a youth member, the officials and me, and Minister Cheyne comes to it as well, just for context. We have continued to meet regularly.

MR PARTON: How regularly?

Mr Rattenbury: It is usually once every six weeks. It was from month to month. We found that was probably a little too frequent. We usually meet for a couple of hours, so it was quite a major ask. We have gone to about six-weekly this year. There will have been, off the top of my head, six or seven meetings this year, roughly.

MR PARTON: As a genuine question, is it an advisory council which is fulfilling what you believed it would fulfil? At this point are you able to point to any decision that has been made that was influenced heavily by the advisory council? Is it assisting you as minister?

Mr Rattenbury: It certainly is. I get a number of objectives out of it—in having a council that is not just about industry but has industry and harm minimisation advocates—to put a loose term on it—and it is valuable because those groups do not always talk to each other. That has invited some cross-collaboration and people hearing each other's perspectives. That, in itself, for me is a valuable thing. In terms of specifics, there were matters coming out of the pandemic. Specific issues were raised in those meetings and we took actions on them. The scheme allowing further buy-back of authorisations came out of some of those discussions. The government then implemented that. It was identified that it would be useful. I would have to go back and check the minutes to think about some others, but there are some examples there. There is certainly the work that has been done on self-exclusion. We have had a dedicated self-exclusion working group. That has enabled people to work together to think about a range of answers.

Mr Ng: Mr Parton, I could just assist directly. The minister has alluded to the various working groups that occur under the Ministerial Advisory Council. The minister asked for the establishment of a diversification working group, and that is intended to support the delivery of Parliamentary and Governing Agreement commitment E6, which states:

Facilitate planning and other processes to allow clubs to diversify to other revenue-generating streams, particularly development of available land for social

housing and land supply purposes ...

As part of that process, there has been a working group established which is chaired by the directorate but also has nominations from ClubsACT, Canberra Community Clubs and also a member from the Environment, Planning and Sustainable Development Directorate, along with a gambling harm reduction expert. The focus of that group is to identify barriers to diversification experienced by clubs, and give support and advice through government, provided by JACS, on a range of possible initiatives available to support the delivery of that commitment. It is intended to be the arms and legs of the high-level Ministerial Advisory Council to support the delivery of that PAGA commitment.

MR PARTON: That is sufficient for me, Chair.

THE CHAIR: Thank you, Mr Parton. Minister, regarding the aforementioned conflict of interest issue, my understanding is that the statutory appointment of the current Fair Trading Commissioner was in January 2021. At that time, were you or your office aware of the possibility that there had been a spousal connection between the former Fair Trading Commissioner and the individual appointed as his replacement?

Mr Rattenbury: I would have to take that on notice, Mr Cain.

THE CHAIR: Did that appointment go through a cabinet process or just through your directorate?

Mr Glenn: That is an appointment that I make as director-general under the legislation. That is purely on me.

THE CHAIR: Thank you. Minister, touching on our earlier conversation, could you confirm that, by accepting the Head of Service's advice, you are comfortable with a Fair Trading Commissioner who was in a spousal relationship with the former commissioner, who was in a complaint by a business, and that she did not have to declare that she was married to the individual?

Mr Rattenbury: I do not accept your characterisation of the circumstances, Mr Cain.

THE CHAIR: They are the facts.

Mr Rattenbury: That is your characterisation. I think there is some other context for this. That—

THE CHAIR: They are the facts.

Mr Rattenbury: I do not accept your characterisation.

THE CHAIR: I am not characterising anything; I am describing facts.

DR PATERSON: Mr Cain, ask the question.

THE CHAIR: Are you comfortable with an undeclared spousal relationship by a

senior officer managing a dispute between a commercial entity and the former commissioner, who was her husband?

Mr Rattenbury: As I indicated earlier, Mr Cain, I think any conflict of interest needs to be examined in this—the context that takes place and how that is being managed. As we have discussed in some detail, I asked the Head of Service to consider the circumstances, and that is the advice she gave me.

THE CHAIR: Where do you think the conflict of interest would be if not in a situation such as that?

Mr Rattenbury: I am not going to speculate on that, Mr Cain.

THE CHAIR: Have you got any examples of what a conflict of interest would be, in your understanding?

Mr Rattenbury: I could come up with all sorts, but I do not—

THE CHAIR: Just give us one.

DR PATERSON: It would be a hypothetical.

THE CHAIR: Just give us one that would give you cause to be concerned.

Mr Rattenbury: You could think of many—where somebody had a direct financial interest, for example.

THE CHAIR: Say, in a relationship?

Mr Rattenbury: Mr Cain, you obviously have your view on this and I have explained to you—

MR BRADDOCK: Is that a question?

DR PATERSON: It is a hypothetical.

THE CHAIR: No. I am asking you what would cause you concern in a spousal relationship and how that was being played out in the administration of your directorate?

Mr Rattenbury: As I have already indicated to you, I had enough concern on this matter to seek advice, and the advice back to me is as you have understood it.

THE CHAIR: The advice was that it was all okay. It almost seems to suggest: why bother asking? It was all so obviously okay. You have asked about something that was obviously okay by the Head of Service.

MR BRADDOCK: Is there a question in there, Mr Cain?

Mr Rattenbury: Your suggestion is that if I have a concern about something I should

not ask. That is what you just indicated, which is just not the way ministers operate.

THE CHAIR: So why were you concerned?

Mr Rattenbury: I have outlined my answer to you, Mr Cain, already.

THE CHAIR: No; why were you concerned?

Mr Rattenbury: If I accept the point you have made, that is saying I should seek answers. That does not predetermine the outcome. My job, as a minister is to, on occasion, ask questions about things to make sure that I am satisfied that the public service is fulfilling the obligations as set out in things like the code of conduct.

THE CHAIR: So what was it about this particular set of circumstances that caused you to write to the Head of Service? You do not do that unless you have some concerns.

MR BRADDOCK: Mr Cain, you do not need to raise your voice. The audio in here is just fine.

MR RATTENBURY: I think I have answered your question previously, Mr Cain. I cannot be any clearer to you. That you do not choose to accept my answer is a different point.

DR PATERSON: I have a substantive question, Mr Cain. You have had many many—

THE CHAIR: I have just one further. Could you just confirm that your level of concern was so significant that you wrote to the Head of Service about that?

Mr Rattenbury: Yes, I wrote to the Head of Service to ensure that the policies of the public service were being appropriately followed.

THE CHAIR: And you could not work that out on your own?

Mr Rattenbury: Well, I chose to seek advice from the person who has direct responsibility for those matters. I do not manage the public service on a day-to-day basis. I am sure you would appreciate the role of ministers; you have been in the ACT public service and you know how it works.

DR PATERSON: One of the PAGA agreements is around establishing a rigorous across-venue self-exclusion regime across the ACT for people experiencing harm from gambling, with significant penalties for breaches. I am interested as to where this is up to.

Mr Rattenbury: This ties back to our earlier conversation, as part of the consideration of an across-venue system, on whether a suitable technological solution can be found. If you had a CMS and all the venues were connected to it, and you had the right with matching technology, possibly through cards or other things, that would be a much more effective system than we have at the moment. I do not know if you

know, but for the purposes of the committee's answer, the current system is one where a person goes on a register, then the way it generally works is that most clubs have a folder at the front desk with a name and a photograph, and the staff member on the front desk is, from that folder, meant to identify someone coming through the door and possibly recognise them as an excluded person.

I think there is a recognition that that is a system that has potential flaws in it and risks. It may not always work, so we are considering whether there is a better way we can do it and whether that might be through some electronic means that essentially removes the place for staff to have to make that call. You can appreciate it is probably pretty difficult for most front-desk people.

DR PATERSON: Yes. I have received a briefing on self-exclusion, and it does sound like it is an online system these days. I am not sure, but that was, I think, the information I received.

Mr Rattenbury: I think you register online. Is that what you meant?

DR PATERSON: No. The exclusion database is online.

Mr Rattenbury: Yes. Let me invite Ms Chan to give you the detailed answer.

Ms Chan: The database is a system that the venues log into. That is what they use to enter data, as you have said, whether it is entering a new excluded person or entering incident data. That is also a system that they can use to view photos of individuals who are excluded.

DR PATERSON: We have had discussions in hearings before. I think Mr Parton raised questions around facial recognition and the challenges with seeing that develop at all here. I am feeling frustrated that we had not seemed to progress that part of the PAGA at all. Also, the numbers on self-exclusion seem to be decreasing quite rapidly since COVID, which I have raised multiple times in hearings. I am just wondering, are there going to be any substantial next steps before this end of term of government that we can expect to see?

Mr Rattenbury: I expect there will be.

MR BRADDOCK: I have a question in terms of diversification and sustainability fund grants—their use and how they have been able to reduce the number of pokies at those clubs.

Mr Rattenbury: Certainly, Mr Braddock. I know Mr Ng has got quite a bit of detail on this, but certainly the intention of the fund is to create a pool of money that is available to venues who have a proposal. That is designed to diversify their revenue. We have had quite a range of projects come forward under that program. I think it would be fair to reflect that it has generally been smaller venues that have accessed it. They tend to struggle to have a pool of capital to do new projects. For me that is an important part of the program as it enables people to get over that shortage-of-capital hump to undertake some projects. We would be happy to detail a few examples if you like, but it depends where you want to go with the question.

MR BRADDOCK: I am interested in what might have been utilised in the past 12 months.

Mr Ng: Mr Braddock, it may be useful to provide some context about the strategic priorities of the fund. As the minister mentioned, one of the strategic priorities for the fund, as set out in the statutory guidelines, at the moment is small and medium clubs. So there is a kind of a two tier system for the allocation of grant funding. Tier one is for grants of around \$25,000, and that is really to small and medium clubs. Then there is the ability under the tier two scheme for much larger grants; \$250,000 for any club that can demonstrate funding towards the prescribed purposes in the legislation.

Over the last 12 months, Mr Braddock, if you are after some examples of diversification grants that have been provided, there was a grant provided for the redevelopment of a conference room, one grant allocated for the redevelopment of the frontage in a venue and a grant that was provided for the installation of solar panels at a range of different venues across our club group.

The process for deciding on the provision of these grants is that the applications come into the Diversification and Sustainability Support Fund Advisory Board, which comprises an independent chair and independent members. They provide advice to the minister about which grants it would support and that meet the criteria in the legislation and the guidelines and which they would recommend that the minister approve. The minister then has an ability to approve or not approve the recommendation that is made to him. From there, the directorate manages the fund itself and, pending the minister's decision, will arrange for the payment of those first grants that have been approved.

MR BRADDOCK: Is the issue of the grant tied at all to the giving back of a poker machine licence?

Mr Ng: Not necessarily with the Diversification and Sustainability Support Fund grants. The initiative arose out of the "Pathway to 4,000 gaming machine authorisations", which was delivered in the last term of government. The idea was to support clubs to gain the capital that was necessary to diversify their operations—for example, increasing or enhancing their food and beverage offerings and the like, and providing them streams of alternative revenue which supported them to move away from gaming machines. It does not necessarily require the handback of gaming machines in order to access that fund.

What I would say, though, is that the collection model for how the levy is structured is intended to be a disincentive for clubs to hold on to unused authorisations, and there is a per authorisation per month fee that is levied on clubs. They have to pay that whether or not they have an authorisation active or not; so it encourages clubs to give back authorisations which they are not using.

THE CHAIR: Minister, I make reference to folio 118 from CMTEDD FOI 2023-161. It is a time line provided by Ms Margaret McKinnon regarding the events leading up to this aforementioned meeting and sent to the Head of Service. Were you aware of this time line in this email sent from Ms McKinnon to the Head of Service?

Mr Rattenbury: I do not specifically recall the document right now, Mr Cain.

THE CHAIR: It is basically just some timings of what happened.

Mr Rattenbury: It sounds logical, but I cannot think of the detail.

THE CHAIR: Basically, one of the key things described in this time line is:

Ms Cubin attended the without prejudice discussions as Commissioner on 6 July 2021. It was made clear to Eastwood Legal prior to the meeting that the Territory is not able to make settlement offers at this stage but does consider that a discussion between the parties should enable the progression of the matter.

Obviously, this is the meeting I referred to previously where Ms Cubin was instructing an ACT government solicitor involving a dispute between 86 Candles and the previous Commissioner for Fair Trading. It was only when the matter moved to the ACAT in November that Ms Cubin completed a conflict-of-interest declaration. Do you believe she should have made such a declaration prior to this meeting on 6 July? My interest is: what triggered her to make a conflict-of-interest declaration, and why was it not made earlier?

Mr Pryce: I cannot speak for Ms Cubin and what her state of mind is; however—

THE CHAIR: Is Ms Cubin one of your officers who is able to be a witness to this proceeding?

Mr Rattenbury: I would need to take some advice on that, Mr Cain.

THE CHAIR: Could you do so while we are still proceeding on this hearing, but continue—

Mr Rattenbury: We would probably need to have a break to do that. I would need to consider your request.

THE CHAIR: We will take a short two-minute break.

Mr Rattenbury: We will come back as quick as we can.

THE CHAIR: Thank you. The hearing will have a short break.

Short suspension.

THE CHAIR: We will now reconvene. Minister, I asked why Ms Cubin made a declaration of a conflict of interest on 24 November 2021. Is she able to answer that question?

Mr Rattenbury: Mr Pryce will take that question now, Mr Cain.

THE CHAIR: I might make the comment that it is rather extraordinary that a senior

official you brought here is unable to answer a question about a document from within the department that is describing steps that she has taken. I find it extraordinary that she cannot answer questions about something that is being described about her behaviour and conduct by the directorate itself.

Mr Pryce: Mr Cain, from my perspective, both as head of Access Canberra and as the Acting Commissioner in this regard, we believe we have applied the policy as required and made the appropriate declarations and implemented steps to address that conflict of interest, once declared. My understanding is that this matter is also subject to other external scrutiny processes, and therefore I do not believe it is appropriate to discuss this in more detail while they are on foot.

THE CHAIR: What other external scrutiny is happening here?

Mr Pryce: I heard you mention the public service commissioner referral and I also understand that the Integrity Commission might have an interest.

THE CHAIR: Might have or is investigating this matter?

Mr Pryce: I do not know—and I cannot say if I did.

THE CHAIR: Why would you even think the Integrity Commission is connected to this issue?

Mr Pryce: That is my belief, Mr Cain.

THE CHAIR: What has led you to that belief?

Mr Pryce: I am unable to say.

THE CHAIR: Pardon?

Mr Pryce: I am unable to say because of privacy requirements under the act.

THE CHAIR: You are a sworn witness. Why can't you say why you believe a certain thing?

Mr Rattenbury: Mr Cain, if I might interrupt, I understand the Integrity Commissioner probably addressed this in a hearing earlier this week; so that is a matter of record.

THE CHAIR: No, the Integrity Commissioner never explained what Investigation Athena—I believe that is what he called it—was about.

DR PATERSON: You asked him—a conflict of interest of two public servants.

THE CHAIR: But he never said it was about the matter that I have been discussing this afternoon. He never said that. Are you saying that is what his investigation is about?

Mr Rattenbury: No, that is the inference that was relayed to me from those hearings.

THE CHAIR: Not from me.

DR PATERSON: I have a substantive, Mr Cain, with respect to breaches detected for gaming machine licences. This year there were only three breaches detected. I was concerned last year because there were 15—down from 48 or the high forties. But this year we have three breaches. I am wondering how many inspections of gaming machines were conducted? Is there concern or does this mean that we have very, very compliant gaming machine license holders in the ACT?

Mr Mangeruca: This is part of a broader compliance arc which has connections with previous compliance programs that were undertaken leading on from the multifocal compliance program which was conducted in a previous financial year and then a targeted compliance program which occurred after that. We have now moved to a compliance approach when it comes to gaming machine audits that will look at targeted inspections which can occur from time to time when, for example, a venue is moving from one venue to another or there is a transfer of a licence or other matter that requires machines to be turned off and we can more broadly look at the intricacies of those machines.

So, whilst it is true to say that there were three breaches detected that were dealt with on the engage and educate spectrum of the engage, educate and enforce compliance approach, which were dealt with at the time, there were 109 intricate reviews of gaming machines in relation to three premises in this financial year. That is in conjunction with other compliance programs that are undertaken on a QA perspective from time to time.

So what we are seeing for these aspects and the things that we are looking at is that the compliance arc shows that there is good compliance in industry when it comes to the requirements in relation to gaming machines under the Gaming Machine Act and the Gaming Racing Control Act, and that, with the requirement for overarching compliance programs which check 100 per cent compliance with every venue, there has not been a need to undertake at this time.

DR PATERSON: It does concern me a little bit that we have 3,700 or so machines yet we are only checking 109 a year.

Mr Mangeruca: But that is not to say that there are no other compliance programs in relation to those venues.

DR PATERSON: To machines, though. I am asking about machines.

Mr Mangeruca: In relation to the machines—and if we are talking about, for example, opening them up and looking at the yield and things like that—we have shown through an integrated three-year program that compliance in that space is quite good. But we are also conducting other compliance programs and education programs within venues that give us a level of assurance about the operation of that venue, which would translate to the venue's operation of those gaming machines.

DR PATERSON: Two years ago, I think, we had around 40 or 45 breaches of machines. If we were only checking 100 or so—though that figure may have been slightly different a couple of years ago—that would suggest that half the machines are breaching. Does that not ring alarm bells that if we actually checked the machines currently running in venues that there might be actually significant breaching?

Mr Mangeruca: Sorry, I am not sure. Just stepping back, the breaches that were detected were in relation to the display of signage on machines.

DR PATERSON: Yes, but last year there were also breaches in payouts of machines, and the jackpots—I can go and find them—which I raised concerns about in last year's hearing.

Mr Mangeruca: Whilst you are looking for those figures, I might just correct myself. It was 139 detected.

DR PATERSON: No worries. Those breaches must have been the year before. But my concern is that we are barely touching the machines in terms of compliance. Is there any scope next year to do more inspections of currently used machines in venues?

Mr Mangeruca: Access Canberra operates under its accountability commitment and its regulatory continuum, which is published on its website, which outlines what our forward priorities are. Given that we re-baselined the industry following COVID with the multifocal compliance program, where 100 per cent compliance was tested against, and we are coming out of that, there will be, I suppose, room in the future for a more comprehensive compliance program.

DR PATERSON: Thank you.

MR BRADDOCK: I am just checking. Is same day delivery of alcohol included in this session?

Mr Rattenbury: Yes, it is with me as a team. The right officials are here so I am happy to cover it if you would like to.

MR BRADDOCK: I noticed that the time line has closed for public consultation and the listening report is due to be coming out in a September/October time frame, and I was hoping for an update on that.

Mr Ng: Mr Braddock, we certainly are putting together all the feedback into a listening report. The intention is that we will take all the feedback. I think there was a very useful bit of discourse in relation to the reforms proposed but also kind of a range of different proposals that people had come in from that were separate to what government was particularly looking at. We are certainly hoping to do that in the next few months to support government to issue that listening report.

MR BRADDOCK: And once you have done the listening report, that is when you will be looking at the reforms and whether it would be required to do that through legislation or regulation for that particular industry?

Mr Ng: Yes, certainly that is the general trajectory. But those matters will be subject to cabinet consideration.

Mr Rattenbury: Certainly one of the things that has come out of some of that feedback, Mr Braddock, is that this is a fast-moving space. The industry is developing very quickly. They are using a range of sophisticated techniques to promote alcohol sales in the community through data collecting and the like. This is certainly feedback that has been given to me outside the formal process in talking to stakeholders. It is an area I am quite concerned about and one that we will be seeking to ensure that any regulatory framework we put in place is as up to date as possible in reflecting how the online alcohol sales industry and the same-day-sales industry are developing their practices to ensure that we are mitigating against some of the risks of excessive and immediate delivery.

MR BRADDOCK: Are we seeing those risks to consumers happening here in the ACT at the moment?

Mr Rattenbury: Not that I have specific examples of, but certainly from the researching being done by some of the stakeholders, it has been raised with me. It has not been specifically about the ACT but more about the way the industry is operating.

MR BRADDOCK: Thank you.

DR PATERSON: I would just refer to my previous question. Two years ago with the breaches detected, there were two instances of failing to operate a gaming machine at the correct percentage payout and one instance of operating a high-denomination note acceptor. My concern is that we are not actually assessing these machines in the way we need to be for compliance for consumers. That is just a follow-on from the previous question. I do not have a question.

Mr Rattenbury: I am happy to take that as a piece of feedback. If the committee wants to make some recommendations, we would be open to that.

THE CHAIR: Minister, is Ms Cubin able to answer a few questions about the time line that I referenced a little bit earlier from Ms McKinnon to Head of Service.

Mr Rattenbury: No; I do not propose to ask Ms Cubin to do that. As Mr Pryce has indicated, there are a number of external matters taking place, and I am advised that that would not be considered an appropriate way to proceed. I do, however, have a number of answers to some of your earlier questions, if you would be happy for me to go back to those.

You asked me earlier a question about my letter to you of 9 February this year, in which I responded to your letter of 7 December. You asked me why I did not mention the Public Service Commissioner in the letter I sent to you. At the time of replying to you, I had had an answer from the Head of Service, which I wrote about in the letter, and I wrote that letter to tell you about that in answer to your question. At that time, I did not yet have anything from the Public Sector Standards Commissioner to tell you about. The answer I gave you was the information I had at the time, and I thought that

was a helpful and accurate answer to the question that you had posed to me.

THE CHAIR: It certainly would not have been irrelevant to me to know that you were also engaged with the Public Sector Standards Commissioner—but that is just a comment. Is there anything else?

Mr Rattenbury: Yes. In terms of writing to the Public Sector Standards Commissioner, I wrote to the commissioner in November last year. The commissioner wrote back to me on 22 December saying that he had accepted the referral. My office wrote to the commissioner again on 25 January this year asking for an update on the timing. That email was initially acknowledged and then my office received a further reply on 15 February, which said:

Due to the sensitivity of the material, we would not ordinarily provide further advice on a matter the commissioner has undertaken to consider.

The commissioner went on to say—

THE CHAIR: Which commissioner is this, sorry?

Mr Rattenbury: This is the Public Sector Standards Commissioner. The commissioner went on to say:

Noting time frames and progression of inquiries/investigations is reliant on the availability and engagement of relevant people and the evidence they provide, it is not possible to predict when the matter will be completed. Having noted this, on this occasion we will undertake to advise you and the minister—

the “you” is a reference to my staff member who sought to get an update—

—that the misconduct process is completed when it is appropriate to do so.

THE CHAIR: So you last heard from the Public Sector Standards Commissioner on 15 February?

Mr Rattenbury: Yes, and they indicated, as I have just said to you, that they do not normally convey details about their processes, and they indicated they would provide us a response “when it is appropriate to do so”.

THE CHAIR: Given we are near the end of November, it is pretty extraordinary you have not heard anything further.

Mr Rattenbury: That is your observation—and, yes, I tend to agree with you.

THE CHAIR: Well, that is something, then. Thank you.

Mr Rattenbury: While we are in that vein of answering questions, if you are happy, I will just ask Mr Ng to provide some updates on surrenders.

Mr Ng: Mr Parton asked before about which clubs were the most significant surrenderers of authorisations. I am happy to come back with a kind of top 10 list, if

that meets the committee's needs. I would make clear that this is "surrenders" as part of government incentive schemes and the previous term of government's "Pathway to 4,000 authorisations". It does not include forfeitures as part of the trading scheme, which is a separate figure.

In top 10 order is the Southern Cross Club, with 79 authorisation surrenders; the Canberra Tradesmen's Union Club, with 76; Tuggeranong Valley Rugby Union Club with 74; the Belconnen Soccer Club Hawker with 67; the Ainslie Football Club and Social Club, 58; the Canberra Labor Club with 55; the Southern Cross Club Jamison with 52; the Town Centre Sports Club with 51; the Hellenic Club of Canberra with 50; along with the Lanyon Valley Rugby Union and Amateur Club with 50, as well as the Sports Club Kaleen. Those are figures that were provided to me by colleagues from Access Canberra, and that is the top 10—not all of the authorisations surrendered.

THE CHAIR: Thanks for those answers. Mr Pryce, as I said earlier, Ms Cubin signed a conflict-of-interest disclosure declaration on 24 November, just after the dispute moved to the tribunal. Do you believe she should have declared that same conflict of interest at the meeting in July 2021, when she was instructing a government solicitor on the matter involving the former commissioner and her then husband?

Mr Pryce: Mr Cain, I believe we followed our policies and procedures in relation to conflicts of interest, and that declaration was made by Ms Cubin on that day.

THE CHAIR: Are you aware of whether Ms Cubin advised the business involved, 86 Candles, before this meeting of 6 July that she was indeed married to the person that business was complaining about?

Mr Pryce: I was not party to any communications of that meeting, so I do not know.

THE CHAIR: After the declaration of interest, you separated her from responsibility for that matter or those matters that moved to the court. There were five different related matters involving the former commissioner and the business and individuals involved in that dispute. Why did you separate her from involvement in those matters?

Mr Pryce: Based on the information that I knew at that time when there was an actual legal proceeding, I guess, underway, I believed they were the appropriate steps to follow our conflict-of-interest policy.

THE CHAIR: By the same reasoning, why would you allow her to attend an unofficial mediation in July without declaring her interest?

Mr Pryce: That is not my understanding of what happened in July in the meeting.

THE CHAIR: Tell me what—

Mr Pryce: There was meeting with legal representatives and the Commissioner for Fair Trading, of which Ms Cubin was fulfilling that function, so she attended that meeting on that occasion.

THE CHAIR: Can you describe who was at that meeting and why?

Mr Pryce: Again, I do not have that information before me, and I was not there.

THE CHAIR: There will be more to follow on this.

DR PATERSON: Minister, again, my line of questioning is relatively consistent through hearings on this. The last time we discussed the casino, there had not been any formal application for machine licences but there was discussion around the \$2 limit.

Mr Rattenbury: Yes.

DR PATERSON: Has anything progressed since that last hearing when we discussed this?

Mr Rattenbury: Without checking the diary, Dr Paterson, I have met with Casino Canberra recently. They asked me to meet and talk about a range of matters affecting them, as the responsible minister. They have raised with the government their continued desire to have poker machines at their venue. I am pretty sure that meeting was since we last spoke, so I sort of offer that as “newish”.

DR PATERSON: Yes, that is new.

Mr Rattenbury: They continue to put the view to us that they would like to see the \$2 figure that is currently in legislation raised. They do not believe—we understand this to be true—that you can obtain electronic gaming machines with a \$2 bet limit. They therefore seek to raise the limit so they might get electronic gaming machines. That is broadly their policy view, and they continue to make that advocacy to government, and the government has not taken any decision to do that.

DR PATERSON: One of the recommendations from the previous inquiry into the Gaming Machine Bill that I introduced around pokies in Molonglo, Clubs ACT recommended that the bill go a step further and include a ban on machines in for-profit venues. What do you think about that idea?

Mr Rattenbury: It is not something I have specifically considered recently. We have the legislation there around the casino. I was involved in that legislation at the time it was developed as a member of this place. The view was that, if the casino were to receive EGMs, it should operate at the highest harm minimisation standards that were considered best practice at that time. That was a number of years ago, and I think probably the debate has evolved a bit since then. I know Clubs ACT have that view around the distinction between the not-for-profit and the for-profit model. It is not something I have specifically turned my mind to.

DR PATERSON: Do you think there is an issue with the machine licences that will need to be transferred from not-for-profit entities or clubs to a for-profit venue where there is no investment by Casino Canberra in the Canberra community?

Mr Rattenbury: I think that is a fair point, and it is one that the clubs have raised as well. I think government might want to consider whether you put a different tax regime in place or put community contribution obligations on the casino, if that transfer were to take place. I am also conscious that there might be some venues quite keen to sell their authorisations to the casino for the capital injection that would offer them that they might use to diversify or offer new services. There are probably a few different views, even within the sector, on how you might approach that question.

DR PATERSON: This is obviously a question that would have a lot of public interest if the casino were to get machine licences. I know there is legislation that requires a social impact notification, but what notification of the Canberra community would you proceed with if you were to go down the path of progressing the idea of machines in the casino?

Mr Rattenbury: The one bit of context I would add there is that the legislation currently contemplates that happening. It allows for it under certain circumstances. That legislation has been in place since 2017 or 2018—something like that. So, in some senses, there is already community knowledge. If you ask most people on the street they of course would not know, but there is a degree of community knowledge that that is already possible. Anything that happened from here would be a change, as opposed to, I guess, a new policy. I do not mean to split hairs, but it would be an adjustment of the policy.

The government has not considered that, but I think there would obviously be a period of time. Even if the government introduces legislation, there would be some development of that process. There would be some usual consultation processes. It would then come to the Assembly and potentially then go to a committee. So it would be quite a lengthy process. It is not something that would happen overnight. That is probably a bit of a short answer to your question.

THE CHAIR: On behalf of the committee, I thank witnesses for your attendance today. Some of the questions taken on notice have been answered. Are there any outstanding?

Mr Rattenbury: We will check our records and with the committee, but I think there are probably still a couple.

THE CHAIR: Please provide any such answers to the committee secretary within five business days of receiving the uncorrected proof *Hansard*. On behalf of the committee, I would like to thank our witnesses, who have assisted the committee through their experience and knowledge, and thank Broadcasting and Hansard for their support. If a member wishes to ask questions on notice, please upload them to the parliamentary portal as soon as practical, and no later than five business days after the hearing. This meeting is now adjourned.

The committee adjourned at 3.32 pm.