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

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 21 NOVEMBER 2023

This is a **PROOF TRANSCRIPT** that is subject to suggested corrections by members and witnesses. The **FINAL TRANSCRIPT** will replace this transcript within 20 working days from the hearing date, subject to the receipt of corrections from members and witnesses.

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

By authority of the Legislative Assembly for the Australian Capital Territory

APPEARANCES

ACT Government Solicitor 116
Justice and Community Safety Directorate 124

Privilege statement

The Assembly has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

"Parliamentary privilege" means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

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.

While the committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

Amended 20 May 2013

The committee met at 9.10 am.

Appearances:

ACT Government Solicitor
Garrisson SC, Mr Peter, AM, Solicitor-General for the ACT and ACT Government Solicitor

THE CHAIR: Good morning everyone and welcome to the public hearings of the Justice and Community Safety Committee for its inquiry into annual reports for 2022-23. The committee will this morning hear from the Solicitor-General followed by the Minister for Human Rights and officials later this afternoon. So, this morning we welcome Mr Garrisson, Solicitor-General for the ACT.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on, the Ngunnawal people, and acknowledges and respects 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.

Proceedings today are being recorded and transcribed by Hansard and will be published. Proceedings are also being broadcast and webstreamed live. When taking a question on notice it would be useful if the 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.

I remind the witness 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. Please confirm that you understand the implications of the statement and that you agree to comply with it.

Mr Garrisson: I understand it and will comply.

THE CHAIR: We are not taking opening statements, so we will go straight to questions. The Sofronoff inquiry and the fallout from it has obviously had a big impact on the ACT criminal justice system and remains ongoing. To the extent that you can say, Solicitor-General, can you reflect on the damage that has been done to the ACT criminal justice system following the case against Mr Lehrmann and now the Sofronoff inquiry?

Mr Garrisson: I do not really believe it would be appropriate for me to make a comment in relation to that, Mr Cain, that is more a matter of policy.

THE CHAIR: As the senior solicitor in the ACT, have you noticed any changes of significance in the criminal justice system since that hearing and the abandoned trial.

Mr Garrisson: No. We do not interact with the criminal justice system very much, that is more the purview of the DPP.

THE CHAIR: With respect to the matter Drumgold v Board of Inquiry, is the ACT Government Solicitor representing the territory?

Mr Garrisson: Yes.

THE CHAIR: Are you personally handling the ACT solicitor's representation of the territory or has it been assigned to another ACT government solicitor?

Mr Garrisson: There are senior lawyers in my office responsible for the matter. I have overall responsibility for the matter of course. We have external counsel briefed to advise and appear in the matter.

THE CHAIR: Are you able to say who is instructing this senior counsel?

Mr Garrisson: The Practice Leader of our Public and Constitutional Law Group.

THE CHAIR: Who is that?

Mr Garrisson: Mr Kettle.

THE CHAIR: Do you mind saying who the senior counsel is that you have briefed?

Mr Garrisson: Certainly. It is Kate Eastman SC.

THE CHAIR: Who is her junior?

Mr Garrisson: The junior is—I just had a momentary lapse of memory.

THE CHAIR: It might come back to you during today or you can take it on notice.

Mr Garrisson: Certainly. I apologise for that.

THE CHAIR: Sorry, Mr Leishman.

Mr Garrisson: Sorry?

THE CHAIR: Mr Leishman is the senior counsel?

Mr Garrisson: No, Kate Eastman.

THE CHAIR: Kate Eastman, I beg your pardon.

Mr Garrisson: SC.

THE CHAIR: And Kate's chambers are based?

Mr Garrisson: In Sydney.

THE CHAIR: Can you explain why the Attorney-General was removed as a defendant in this matter?

Mr Garrisson: Not an appropriate party.

THE CHAIR: It is my understanding that was done by consent?

Mr Garrisson: Yes.

THE CHAIR: A member of the public probably does not really understand how the territory is the defendant and how the Board of Inquiry itself is a defendant. Can you put that into layman's terms? What does it mean that Mr Drumgold has a claim against the territory? And what does it mean that he has a claim against the Board of Inquiry?

Mr Garrisson: Well, it is not so much a claim, Mr Cain, but it is an application for judicial review of the report.

MR BRADDOCK: I am interested in your advice in terms of what are the practical thresholds for agreeing to the release of ACT Government Solicitor advice publicly, where it might be in the public interest or might be able to assist those here in the Assembly.

Mr Garrisson: Advice provided by my office is, of course, subject to legal professional privilege. The question of whether an advice provided by my office is made public will be a matter for the Attorney-General and the government. It is an unusual occurrence for advice to be released, however, it has been from time-to-time. So, for example, when we obtained an advice from senior counsel in relation to the terrorism laws, which is quite some time ago now, that advice was made public. There has been a handful of occasions in my memory over the last 20 years where that has occurred, but the ordinary practice, not only of this government but generally most governments around the country, is that legal professional privilege is maintained. I will not use the thin edge of the wedge argument, that tends to be a little discredited, but as a matter of principle, legal advice that is provided in confidence should remain in confidence.

MR BRADDOCK: There have been quite a lot of debates where your legal advice has been referred to, but never actually tabled. Therefore, it is the case that there is no possibility for us to be able to ascertain, I would say, the legal merits of the advice and the appropriateness of whether a certain course of action be pursued. My question is that if your advice is not released, then how is a member of the Assembly meant to obtain such advice to be able to assist in the drafting of legislation?

Mr Garrisson: That is a matter for the individual member to pursue in terms of obtaining their own legal advice.

THE CHAIR: The privilege is obviously for the client to waive or otherwise. I know you have said on a few occasions it really requires your or the Attorney-General's approval. If a minister or a senior government official request advice, can you clarify what the circumstances and avenues are for that privilege to be waived, so that advice could be released?

Mr Garrisson: Well, that would be a matter of the particular circumstances. For example, I have made available to the Auditor-General and to the Integrity Commission legal advices that we provided in relation to the subject matter of investigations they have undertaken. That is an appropriate circumstance in which it is important that those investigative bodies understand the basis upon which decisions have been made and the advices that were provided in relation to those decisions.

As to other circumstances in which legal advice might be released or privilege waived—we have, from time to time, provided legal advice to parties on the basis that it is not a waiver of privilege, but there is a common interest in another party knowing what our legal position is in relation to a particular matter, and it is released strictly on a basis of confidentiality and that it is not a waiver of privilege.

It is difficult to identify particular criteria that one applies, other than the question of the nature of the advice that is provided. So, for example, I have already mentioned that the government published, and has from time to time published, advice that has been provided either by my office or by counsel in relation to, particularly, difficult matters. The terrorism laws was one of them some years ago. So, it is difficult to generalise and each circumstance would be determined on its merits.

THE CHAIR: Let us say the Attorney-General sought advice from your office, or an MLA did in that capacity, or a minister did. Is it open to that individual just to waive the privilege over that advice and release it?

Mr Garrisson: No. There is a provision in the Legal Services Directions 2023, which has been republished earlier this year as you will be aware, which deals with the question of the subsets of legal professional privilege and the basis on which it can be waived. That would be on the basis of either the Attorney-General or me making the decision to do so.

THE CHAIR: What if a member of the Assembly in that capacity received advice from your office? Are they restricted as to whether they can waive that privilege?

Mr Garrisson: Well, Mr Cain, the only circumstances that I can recall in which an MLA has been provided with advice by my office is where there is a claim being made against that member, and in accordance with the guidelines for legal assistance to members and ministers, that MLA has sought the Attorney's approval to get legal advice from our office and we have done so. It encompasses a range of generally quite highly personal matters for that member. It can involve court proceedings. It is not my practice, and has never been my practice, to identify with any level of precision the nature of the advice provided or the identity of the member involved for obvious reasons.

THE CHAIR: Given they have the advice in their capacity as a representative of an electorate, is there anything stopping them releasing that advice if they so choose to? Perhaps you can take that on notice.

Mr Garrisson: I am just trying to identify in what circumstances there would be legal advice that would be provided to a member, for example, in relation to legal proceedings for which that member is a party, where the advice itself would be made

public.

THE CHAIR: That is the point of my question.

Mr Garrisson: Yes.

THE CHAIR: If the member so chooses to do so, what prevents them from waiving the privilege?

Mr Garrisson: Given that the provision of legal assistance to that member is in accordance with provisions of the Legal Services Directions, it would probably be regarded as territory legal work, and the Legal Services Directions would apply to that work, which includes the restrictions on the waiver of the privilege.

THE CHAIR: What if the member just chose to release it?

Mr Garrisson: Well, that would be a breach of the Legal Services Directions.

THE CHAIR: With what implication?

Mr Garrisson: That is a matter for the Attorney-General.

THE CHAIR: What could possibly happen if the member actually released the advice? What sanction is there, if any?

Mr Garrisson: Well, the sanction may be that they do not get advice again, for example.

MR BRADDOCK: Just going back a little bit, let us say that two different ministers have two different interpretations of the advice you have provided. Are you ever concerned in terms of misinterpretation or misrepresentation of your advice and what are the steps taken to address that?

Mr Garrisson: That would be a matter for me to address and would depend on the particular circumstances. So, for example, I might personally address any uncertainty around the advice. It will not surprise you to know that I appear in cabinet from time-to-time to assist in relation to particularly difficult legal issues that are being addressed. If there is any uncertainty about the meaning of advice that we provided or that particular ministers, as ministers, may take a different view as to what my office's advice might mean, then, of course, the Attorney-General or the Chief Minister can ask that I clarify that advice.

THE CHAIR: My understanding, Mr Garrisson, is that you represented the territory in the Calvary Health Care v ACT earlier this year.

Mr Garrisson: Yes.

THE CHAIR: What reflections do you have from this matter, particularly in the interpretation of "on just terms?"

Mr Garrisson: The Health Infrastructure Enabling Act was found to be valid. The full court found that the act and the regulation provided for the acquisition to be on just terms in the sense that it established a process by which those just terms can be determined. The outcome was, frankly, in accordance with accepted legal principle.

THE CHAIR: Have you or the ACT Government Solicitor been party to negotiations for this just terms compensation?

Mr Garrisson: There is a process in place for claims to be made by Calvary in relation to various aspects flowing from the acquisition. My office is assisting the ACT government in assessing and advising in relation to those claims. There is not one large claim. There are several. It is an ongoing process, Mr Cain, and Calvary has 12 months to make its claim and on present indications, it will be dealing with one issue at a time, so to speak.

THE CHAIR: When does that 12 months expire?

Mr Garrisson: On 3 July next year, which is the date of the acquisition.

THE CHAIR: Has there been no resolution of any particular part of the claim?

Mr Garrisson: There are several matters that have been able to reach agreement or principled agreement on. It is probably a matter best addressed to the Minister for Health in terms of where ACT Health has got to in dealing with each of the claims. As I said, we are providing legal advice in relation to them. It would be premature for me to express a view about whether they have landed. It is an ongoing process.

THE CHAIR: Was the ACT Government Solicitor involved in the failed negotiations that predicated this compulsory acquisition?

Mr Garrisson: I am not sure what you are referring to?

THE CHAIR: Well, obviously there were negotiations attempting to come to some agreements about various issues.

Mr Garrisson: In the 12 months prior to?

THE CHAIR: Yes.

Mr Garrisson: No we were not involved in that. They were negotiations between health and Calvary as I understand it.

THE CHAIR: Are you able to comment on what matters have settled and what matters are outstanding in terms of this compensation?

Mr Garrisson: Well, it is a matter of the claims that have been made by Calvary and they should be treated confidentially until, in fact, they are concluded.

MR BRADDOCK: This is a question going back to the annual report where you say:

> Areas of focus for the coming year include:…continued development of a range of activities and operating principles associated with the psychosocial environment of legal practice and the types of information and persons with which lawyers engage…

What does that mean?

Mr Garrisson: What it means is that the practice of law, particularly in this day and age, given the changes over the last three or four years in particular, creates a number of challenges for managing the workplace and the relationship of staff with each other, with the office and the different range of pressures that have become evident in recent times. I think the COVID period, to put it that way, highlighted some issues that I think people were not really aware of in the workplace generally. So the return to work, the return to the office, the management of how the workplace functions, how people interact, how support services are provided, what support services are needed and dealing with those issues are actually highly complex and need to be handled, obviously, with a level of sensitivity.

I guess what it means is that you cannot take anything for granted in terms of dealing with staff, so that you have to have a level of awareness—let us say, you need to keep your ear to the ground. You have to be aware of what is happening within the office and how people are reacting to things and try and, if you will, keep your finger on the pulse, to know where there may be some emerging challenges in terms of workflow, work pressures and challenges people are having in relation to managing their own work or interacting with others.

I mean, it sounds pretty much, "well, that is just the job of managing an office," but I think the job of managing an office, particularly one the size of ours now, has become a far more complex undertaking. It is that sensitivity to some of the deeper issues in the workplace, which I know, for example, the Work Health and Safety Commissioner is heavily focused on, that is uppermost for us in managing particular issues, but also in the training that is offered to our senior lawyers and our managers for how they deal with issues, and staff and their responses. Does that help?

MR BRADDOCK: What practical steps are you taking over the next year if this is an area of focus?

Mr Garrisson: It is an ongoing exercise. So, there is a continued focus on training, a focus on internal reporting, on monitoring of work and performance, of trying to identify issues as soon as they become apparent and actioning them. It is looking for indicators about whether a particular group in the office, or particular individuals in the office. might be having some difficulty coping and putting things in place to address those. It is an ongoing program.

THE CHAIR: How many cases did the ACT Government Solicitor defend in 2022-23 and in which jurisdiction?

Mr Garrisson: I think you have a question on notice in relation to that, which we are working on at the moment. Something along those lines, but we have certainly provided you with an answer in the past in relation to a similar question and—

THE CHAIR: For 2022-23? I am not sure, because obviously that is coming up to the current period. Can you take that on notice?

Mr Garrisson: I can certainly take that on notice.

THE CHAIR: How much did the ACT Government Solicitor spend on external legal advice in 2022-23?

Mr Garrisson: It was a bit over $14 million; $14.3 million. I think it is referred to at page 44 of the annual report. We also expended $4.1 million on counsel.

THE CHAIR: Which legal firms did the ACT Government Solicitor receive external advice from?

Mr Garrisson: From our panel. I cannot recall exactly how many were engaged. As you will recall, there is a panel of 24 firms and I would have thought the majority of them would have been engaged at some point during the course of the last year.

THE CHAIR: Is there any one firm in particular that did most of your work?

Mr Garrisson: I am happy to take that on notice.

THE CHAIR: Is there anything you would like to say briefly in closing?

Mr Garrisson: No.

THE CHAIR: On behalf of the committee thank you for your attendance today. If you have taken questions on notice, which has been the case, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof of Hansard. The committee will now suspend.

Hearing suspended from 9.37 am to 3.00 pm.

Appearances:

Cheyne, Ms Tara, Assistant Minister for Economic Development, Minister for the Arts, Minister for Business and Better Regulation, Minister for Human Rights and Minister for Multicultural Affairs

Justice and Community Safety Directorate
Glenn, Mr Richard, Director-General,
Ng, Mr Daniel, Executive Branch Manager, Civil Law, Legislation, Policy and Programs Division
McKinnon, Ms Gabrielle, Senior Manager, Civil Law, Legislation, Policy and Programs Division

THE CHAIR: Welcome back to the public hearings to the committee's inquiry into annual reports for 2022-23. Today, we welcome Ms Cheyne, the Minister for Human Rights and officials.

Witnesses are to speak one at a time, and please speak directly into the microphone, or your computer, for Hansard to be able to hear and transcribe you accurately. Proceedings today are being recorded and transcribed by Hansard and will be published. 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 for the transcript.

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.

Witnesses: I understand the statement.

THE CHAIR: We are not inviting opening statements, so we will go straight to questions. Minister, the Voluntary Assisted Dying Bill 2023:

> …sets out the government's model to provide eligible Canberrans with the right to make informed end-of-life choices…

Could you outline the primary points of difference between the ACT's proposed model, and those of other states, in particular New South Wales?

Ms Cheyne: This has been detailed at length in my introductory speech, as well as in what is available on the JACS website and the YourSay website. The New South Wales model, as you might be aware, came about through a private members bill with very limited consultation, and as a result, it is considered to be a bill that has not taken all of the lessons that have been experienced and shared from the other jurisdictions.

In particular, access to religious institutions for voluntary assisted dying has not been

addressed, nor has the issue about timeframe to death, nor has the issue about the time between a person first making a voluntary assisted dying request and that request going through the assessment process and being deemed for someone to be able to administer the substance or not. I also believe that in New South Wales there is no ability for a health professional to raise voluntary assisted dying with a person.

So the bill is quite limited, especially given how it compares to Queensland, which before our bill, was widely considered to be the most progressive and workable piece of legislation. I would note that something that Queensland, New South Wales and the ACT each have in common, that the other states do not have, is an exemption to the residency requirement if the person does have a connection to that jurisdiction but lives elsewhere.

THE CHAIR: Are there any limits on that connection for a non-resident. Obviously, as you have said, you have allowed for a non-resident to be treated under the scheme. Are there any circumstances where a non-resident would not be allowed to have that—

Ms Cheyne: If they did not have a substantial connection to the ACT.

THE CHAIR: So what does it mean to have a substantial connection?

Ms Cheyne: It is detailed in the explanatory statement, Mr Cain. I am happy to pull that up, if you give me a moment.

THE CHAIR: Just obviously, in summary of the high points?

Ms Cheyne: I just need to bring it up, if that is all right.

Mr Ng: Mr Chair, I can hopefully assist in that regard. Section 151 of the proposed bill contains a range of examples about what might constitute a substantial connection. So that includes: where an individual has lived in a place close to the ACT border for at least the previous 12 months and who works in the ACT or receives medical treatment in the ACT; an individual who has moved to the ACT so their family, friends or carers who live in the ACT can provide care and support to the individual; an individual who previously lived in the ACT and whose friends, family or carers live in the ACT; and an Aboriginal and Torres Strait Islander individual who has substantial connection with the ACT community and wishes to die on Country.

The framework prescribes a broad scope of what might constitute a substantial connection, but it also allows for some flexibility for people to come and the decision-maker, being the director-general, to make decisions which appropriately consider people's full circumstances.

THE CHAIR: So it sounds like the policy driver for that is they really have to have someone who is with them in the ACT, or close family member or carers, or some friendship base here. Does that more or less summarise that approach?

Ms Cheyne: Not entirely. You could imagine a situation where someone may live in Queanbeyan, for example, and gets their healthcare in the ACT but has no friends or

family in the ACT. So that would likely be where an exemption would be granted.

MR BRADDOCK: I am interested in how well the right to a remedy, if passed, would apply or help with the right to a healthy environment, if passed.

Ms Cheyne: I am happy to talk about that. The timing of both of those bills ideally being passed will be similar, and so I anticipate that the right to a healthy environment will come in and be in effect at a similar time to when the human rights complaints mechanism is up and running. Like other human rights, a person would then be able to complain of any breaches of that right to a healthy environment to the Human Rights Commission for confidential conciliation.

In addition to that, there are numerous other important ways that the right to a healthy environment will be given effect, particularly in that policy makers and decision-makers will need to be considering it as they work through different issues. When making determinations it will need to be considered; where relevant, in cabinet submissions, for example, as well as in human rights compatibility statements.

So the right to a healthy environment in and of itself will be a helpful right. We think the human rights complaints mechanism coming in at the same time is also going to be very helpful for people to be able to complain about their right, and to do so in a way that hopefully gets them a good outcome with the human rights complaints process, which obviously has been in place for many years now and does have a pretty solid success rate.

MR BRADDOCK: I have heard from stakeholder groups concerned about the inability to bring forth litigation under the right to a healthy environment. So I am concerned in terms of, how are groups meant to be able to bring forward court action if necessary under this piece of legislation?

Ms Cheyne: This position has been arrived at after considerable deliberation and broad consultation across the community and government. I think it is worth reflecting that we will be the first jurisdiction in Australia to have the right to a healthy environment. While we were very pleased with the UN's General Assembly resolution back in June 2022, the right is fairly new on the international stage and it is something that is evolving.

What we have sought to do is have a broad definition of the right which aligns with the international definition from the UN. As that right evolves, and as international thinking and jurisprudence evolves, that will assist us in evolving with it. This, necessarily, will take some time, and because it is a new right, it will be something that the government, as a whole, will need to learn about, become familiar with and develop a community of practice with. It is important to balance the broad definition, which we think is the right thing to do, with also giving government time to develop its community of practice around the right and applying it.

Given we have the human rights complaints mechanism coming in at about the same time, there will still be an opportunity for people to be making those complaints and having them conciliated. It will also be giving government feedback in an active way as well, without having to be concerned about a Supreme Court action being brought

against them. It is not never-ever for a Supreme Court action. There is a provision in the bill for that review to be undertaken. Delayed litigation is something we have done before, with the right to education about a decade ago. Again, that was based on the consultation we heard across government. So it has been about a balance here of getting a really good right, in how it is defined, but also in giving the public service the certainty and the confidence so they can develop their thinking and engagement with the right over time.

MR BRADDOCK: I am not disputing the need for long-term implementation and planning to give that certainty and thinking. It is more in terms of, as you say, to never rule out that potential. I think it is important to say in the future there will be a right to litigate. This is something these groups are very concerned about, particularly in light of, as we are the first jurisdiction who are looking to do this, we are potentially setting the example for other jurisdictions in Australia, and they are concerned that this might follow.

Ms Cheyne: We are also the first jurisdiction to have a standalone complaints mechanism as well. I think that is actually going to set up a very powerful model for the community. We do think that the law will be evolving over time, and we do have a mechanism in the act that requires review and assessment, at which stage I would be expecting that is when litigation will be considered.

THE CHAIR: Thank you for providing officers from JACS for a briefing on this. I raised this question with them: what risks have you identified in implementing this new right and its compatibility with other rights and legislation? What if there is a contest between two rights? How are you going to resolve that?

Ms Cheyne: Mr Cain, no right is absolute. Rights need to be considered in the context of other rights, and how they promote or protect other rights. This is something that is considered and demonstrated in all of our human rights compatibility statements. I think we can point to plenty of examples for you where there are many rights engaged by a piece of legislation or a policy, and they are worked through.

THE CHAIR: But have you actually identified any risky areas where there might be a contest that could be problematic and maybe produce an unintended consequence?

Ms Cheyne: I think it is very difficult to talk in hypotheticals.

THE CHAIR: You are probably aware of the Federal Court decision in Sharma last year, the Minister for the Environment v Sharma. I have a little summary in front of me. The conclusion was:

> The Commonwealth Minister for the Environment does not owe a duty of care to Australian children to protect them from the physical harms of climate change which may arise in granting environmental approvals for fossil fuel projects.

Is that something that you have turned your mind to and anticipate addressing with this new legislation?

Ms Cheyne: I think, Mr Cain, bringing in the right to a healthy environment, and with the complaints mechanism, does mean that governments will need to be considering the right to a healthy environment as we have defined it. Policy makers and decision-makers will need to be applying their thinking to that. Then if a member of the community believes their right has been breached, they will be able to make that complaint to the Human Rights Commission for confidential conciliation.

THE CHAIR: I think Mr Braddock might have been referring to, at least, the Environmental Defenders Office, who have an objection to the fact that there is no pathway for a Supreme Court action. Have you been in contact with the Environmental Defenders Office since their submission, and in your opinion, are they still of the same opinion? Or have you been able to persuade them?

Ms Cheyne: They were in attendance when I introduced the bill some weeks ago and I had a very brief conversation with them. I do not believe I have had any formal contact since then, but I will double check that and correct the record if I need to.

MR BRADDOCK: You have definitely done a lot in the last six months in terms of complaints and the environment. My question is, what is beyond that in terms of what is the next consideration? Are we looking to extend any more human rights, for example, into housing?

Ms Cheyne: Not at this stage, Mr Braddock. We are really focused on the passage and then the implementation of the work that we have. I think it is fair to say that the team has done the most incredible job these past three years, but especially in the last year. If you look at the volume and complexity—and it is not just with complaints and a healthy environment but it is also with voluntary assisted dying and with surrogacy laws—it is pretty amazing.

But also, we have just introduced that work. Now we need to get to a point where we do get passage, ideally, for all of that, really, before we have to—if you knock out the Christmas holiday period—the December-January period—we have only a very short time period to get all that work completed, in addition to those committee inquiries. Then, as you know, some elements of some of those bills have delayed commencement dates, generally for six months. That is a time in which the public service, again, will be working with a lot of effort, I would have to say, as well as the Human Rights Commission, to develop guidance, to develop communities of practice, to help educate and train right across the public service so that the legislation can be enacted as intended. And I did forget, the Births, Deaths and Marriages Registration Amendment as well! Again, this is an enormous amount of work that has involved an incredible amount of consultation with the community and across government. I personally say that, with all the bills I have presented, I think we have struck the right balance in being able to implement in an achievable way, while also being ambitious and progressive.

So that really is what the focus is for the next six months, and 12 months, and in the case of voluntary assisted dying, 18 months. We will then be able to take a bit of a breath and consider other opportunities for us. Of course, something we have already very clearly flagged with the human rights complaints mechanism is that we do agree, in principle, to an ACAT pathway. That is something I anticipate would be looked at

in the next term of government, as we have said, after the complaints mechanism has been operating for a period of time.

MR BRADDOCK: Please pass on my gratitude and appreciation to the team, who have punched out an amazing amount of work.

Ms Cheyne: Yes. It is nothing short of extraordinary. We are very grateful.

THE CHAIR: Just checking, minister, do you have oversight of the change in the Children and Young People Act 2008?

Ms Cheyne: Probably not. It would be Minister Stephen-Smith.

THE CHAIR: I am actually looking at the Child Safe Standards?

Ms Cheyne: Child Safe Standards is me, with Minister Stephen-Smith.

THE CHAIR: As per the principles from the Royal Commission, that is with you?

Ms Cheyne: Yes. You have asked me about this before, Mr Cain.

THE CHAIR: I do recall you saying at budget estimates hearings that it is intended to introduce the legislation late this year or early next year to establish the Human Rights Commission as the oversight body regarding the Child Safe Standards legislation. What progress has there been on that legislation?

Ms Cheyne: We are in the middle of working through those legislative models to implement that aspect of the commitment, along with defining the timing that is going to give the organisations the certainty they need and the time to prepare. I am still expecting the introduction of that legislation will be early next year.

THE CHAIR: Will that lead to some resourcing adjustments at the Human Rights Commission?

Ms Cheyne: Mr Cain, as we talked about in budget estimates, there has already been budget funding of $3.3 million over four years to establish the scheme and that funding is being allocated to the ACT Human Rights Commission to administer it.

THE CHAIR: Is there anything you would like to say in closing, minister?

Ms Cheyne: Yes. I have made an error, Mr Cain. Earlier in the hearing, I said that conversations on voluntary assisted dying cannot be initiated in New South Wales, but they can. So that is something where we are not out of step with New South Wales; that we are in step with New South Wales. Importantly, you will see from the legislation we have drafted, that we have carefully considered the legitimate need for health professionals to be able to initiate conversations in certain circumstances, but also that they need to provide all of the treatment options available to a person and the likely outcomes of those when they do so.

THE CHAIR: Thank you for that correction. There is nothing else that you would like to add?

Ms Cheyne: No.

THE CHAIR: On behalf of the committee, I thank our witnesses for their attendance today. If there are any questions taken on notice, please provide your answers to the committee secretary within five business days of receiving the uncorrected proof of Hansard. On behalf of the committee, I also thank all our witnesses who have assisted the committee 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 3.22 pm.