



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

**SELECT COMMITTEE ON THE COVID-19 2021
PANDEMIC RESPONSE**

(Reference: [Inquiry into the COVID-19 2021 pandemic response](#))

Members:

**MS E LEE (Chair)
MS S ORR (Deputy Chair)
MS J CLAY**

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

THURSDAY, 30 SEPTEMBER 2021

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

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.

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Privilege statement

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

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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 1.31 pm.

CATT, MR GRAHAM, Chief Executive Officer, Canberra Business Chamber
TSIRIMOKOS, MR ARCHIE, Chair, Canberra Business Chamber

THE CHAIR: Good afternoon, and welcome to the first public hearing of the Select Committee on the COVID-19 2021 pandemic response. The committee acknowledges the traditional custodians of the land on which we are meeting today, the Ngunnawal people, and acknowledges and respects the continuing culture and the contribution that they make to the life of the city and this region. We also acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be viewing today's event.

Today we will hear evidence from the Canberra Business Chamber, the ACT Human Rights Commission and the ACT Council of Social Services. Please be aware that the proceedings today are being recorded and will be transcribed and published by Hansard, and the proceedings are also being broadcast and webstreamed live. When taking a question on notice, it would be really helpful if you could please state, "I will take that as a question on notice." This will help the committee and witnesses to confirm questions taken on notice from the transcript.

Without further ado, I welcome representatives of the Canberra Business Chamber. Please be aware that today's proceedings are covered by parliamentary privilege, which not only provides protection to witnesses but also obliges them to tell the truth. The provision of false or misleading evidence is a serious matter, and all participants today are reminded of this. Please confirm that you have read and understood the pink privilege statement that the secretariat sent to you.

Mr Tsirimokos: I have, Chair.

Mr Catt: I have as well.

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

Mr Catt: I thought it might be worthwhile introducing the chamber and giving a very brief overview, because we are talking about the impact on business, of what that business sector looks like in Canberra. The key thing that we want to remind people of is just how important small business particularly, but the private sector as a whole, is to the Canberra economy. We had, at the last count, which was in June last year, just under 31,000 active businesses—active remitting GST and trading—in the ACT. That number grew by about 900 over the year before.

By the latest count, those businesses provide about 62 to 63 per cent of the territory's jobs. When we think about business and when we think about why the impact of anything on business really matters, it is very important to keep those statistics in mind. That sector is very much characterised, and that growth was very much characterised, by small to medium enterprises rather than large enterprises. Predominantly, again, those businesses employ under 20 people, in the main.

In terms of the Canberra Business Chamber, we are a not-for-profit organisation. We are a member-based organisation. We have a membership of 650 private sector organisations, and they include not just private businesses but some of the territory's other peak bodies as well—industry associations, community housing providers, community organisations and other NFPs.

We represent 650 businesses, but our overall network spans probably up to 5,000 members. Through those industry association members, we ultimately represent the employers of many thousands of people and the providers of thousands of jobs as well.

THE CHAIR: Thank you very much for that opening statement. This week the ACT government released its pathway forward. What are you getting from that pathway forward? What are the concerns, especially as we move to the different phases coming this week and, of course, on 15 October when, as the Chief Minister stated, the lockdown will lift? At the same time, of course, there will be ongoing restrictions. What are the biggest issues and concerns for Canberra's businesses with that pathway forward?

Mr Catt: First of all, the pathway forward that was released this week has probably given people a lot more detail and some degree of clarity, certainly more so than we had a couple of weeks ago with the first iteration of the pathway. I think the concerns fall into three key areas. We have businesses that, as we move along that pathway, will still be in a position where they are unable to trade viably. We have certainly heard from the hospitality sector; we have certainly heard from people such as gyms and fitness providers, and other people in the fitness industry.

Also, with a section of retail, if we look at the pathway, there is a period from 15 October until 29 October, then beyond, where retail operations for non-essential services are likewise very restricted. For those sectors, what they are hoping for from the pathway to reopening, of course, is a pathway to actually begin trading again.

The principal thing for those businesses and some of those industry sectors is that it is just impossible for them to viably operate their business. That gives them two choices—to operate a business non-viably, which is not really much of a choice, or to hope for sufficient support that will tide them over until they can reach those positions.

As to what people are hoping for, I know that in 2020 we saw what I would describe as an iterative process. I think we saw health guidelines and health directions which could then be modified or worked on, depending on particular business settings or particular sectors. The hope of some of those sectors now is that there is an ability to have that same process and look specifically at a business or an industry sector and see what can be done so that they can operate safely and they can provide good services to their customers and do so in a COVID-safe way.

The other sector that is probably looking at the pathway would be our tourism sector. Again, tourism operators would be a good case in point where the lifting of the lockdown does not provide them with a market or provide them with demand. There is a section of our small business economy, particularly accommodation providers and other people that are connected to tourism, where there is still a big question mark over what their viability will be going forward.

Mr Tsirimokos: The considerations Graham talks about, in particular in relation to retail, hospitality et cetera, are certainly true, but most of those businesses also operate from premises, so there is an impact in turn on landlords. The way in which that is playing out is that landlords are looking at their tenants, and the environment is to negotiate fairly and reasonably. That is the code that we are applying this year, as opposed to a more rigid structure last year, which was a reduction in rent equivalent to the amount of turnover, half of which was deferred and half of which was waived.

That does not apply this time around, so landlords and tenants will probably, in my view, get into some pretty difficult discussions over the next few weeks and months as that plays out. Landlords are fearing that the lack of clarity and the lack of support to them, in relation to rates in particular, mean that they are being forced into a position where they are having to try to back their tenants, or hoping that their tenants are going to come out of it in some way. They feel as if they are carrying, or they might be carrying, a lot of the burden. So the impact is not only direct; it is that indirect impact as well.

THE CHAIR: Graham, you mentioned earlier that there were certain industries that were hoping, in terms of the iterations, to work within the health guidelines and to have some changes made to the restrictions. Can you expand on that a little bit more? For example, I know that the hospitality industry has talked about the one-in-four aspect. Could you expand on that a bit?

Mr Catt: The best way to answer that, Chair, is probably by example. If we think about larger venues, for example, in 2020 they were able to reopen by actually sectioning a large premises. That would apply to clubs and to some large licensed venues. So the one-in-four-square-metre may have applied, but they were able to divide their premises up into multiple spaces, with each of those spaces operating in the one-in-four-square-metre rule. The road map, as it currently stands, does not give any clarity around whether that is an option or not.

I was asked a question today. Based on the road map, it would appear that if you do a yoga class, you need to do a yoga class wearing a mask. If there are 20 people, is that practicable, from a yoga studio's point of view, or can a yoga studio develop a COVID-safe plan and show that it can be managed so that people can practice yoga? There is a plethora of these sorts of questions.

The other one from the road map that has been asked is around indoor and outdoor dining. I will give another example; again, it is from hospitality. It appears from the road map that it is either/or. You can open up inside or you can open up outside, but you cannot open up with a combination of inside and outside dining. How does that translate into actual business conduct?

I think there are a range of questions like these. Our hope is that the process from here on is to engage with industries, where the answers actually lie, and provide them with an opportunity to show, "Yes, we can trade." They may be able to modify some of those requirements or health directions that are set out in the plan but still be able to provide a service, and to do so in a safe way that not only satisfies the health requirements but also lets them look after their customers.

MS ORR: Mr Catt, you said something about an iterative process. I want to get a better understanding of what you mean by that. What would you consider to be a good iterative process as you continue to work through some of the issues that you have raised?

Mr Catt: The roadmap, or the pathway, provides an overview of the kinds of restrictions that may apply and may be eased over a period of time. Businesses are very understanding that that depends on vaccination rates and it depends on the public health settings at the time. With an iterative process, you would take that as a starting point. We would like to see government engaging with those particular industry sectors so that they can understand how those very broad directions can be applied in specific circumstances.

Those examples I gave are examples that were reached in 2020 through engagement with industry. Initially, the one-in-four-square-metre rule applied to every licensed premises. By engaging with the industry sectors and their representatives, it became clear that there were solutions. If our objective is to let business trade and to let them trade as effectively as they can and as viably as they can but to do so safely, how do we arrive at those points?

MS ORR: Can you run through what engagement you have had to date with government, and getting us to the point that we are at now?

Mr Catt: Pretty much from 13 August, as a group of industry representatives of retail, hospitality, ourselves, tourism and some of the national attractions operators, we began meeting daily. Those meetings have shifted to three times a week. That process has been ongoing since 13 August, so the engagement has been good. There is a parallel process, particularly for the construction and property industries, that meets with the government as well. I think they have been meeting two or three times a week to look at issues that are specific to those sectors. It has been frequent and ongoing, I think, from 13 August.

MS ORR: Would it be fair to say that you would like to see that level of engagement continue, as we continue to come out of the lockdown?

Mr Catt: Yes, absolutely. I think it needs to continue. Those engagements are fairly general, so it is a short meeting and an opportunity to talk to a fairly wide cross-section of industry representatives. As I said, what is probably important now is that there is good meaningful engagement between government and specific industry representatives of specific sectors, so that they can start working on those details.

MS ORR: That goes to one of my other questions. We started off with a conversation characterising the concerns with the road map. You noted that the road map has clarified and provided some level of certainty. I appreciate that it is not as definite as one might expect, but we are in a changing and evolving situation. Have you been able to feed in information, through these ongoing consultations, that has been captured in the government support programs, the road map and where we have got to, that has also been of benefit? Is it just a case now that, as we have that broader view, we need to start focusing on those specific issues that need a bit more attention?

Mr Catt: Yes, we have certainly been feeding information in. We have certainly been engaging with the different processes as they have gone along. There has not always been a clear understanding by those industry representatives of exactly how their feedback will be captured and how it will translate into something like a pathway. To give an example, the representatives that are on the group that meets three times a week with CMTEDD were not aware until Monday morning that the pathway document was being released. Although it would be fair to say that our input is being taken on board, and there is certainly engagement with industry sectors, we have not necessarily been closely connected to those processes, if that makes sense.

MS CLAY: You noted the really difficult choice between operating non-viably—or not operating, really—and operating with support. We have just heard from the commonwealth government that we are losing a lot of the COVID disaster payment support. How will that change that has come through this week affect viability and the ability of the business sector to cope?

Mr Tsirimokos: I think there is a serious concern in business that many businesses will not be around and that whatever comes now is too little, too late. If it is stopping, that really is the end, certainly, for many businesses in the city. I am talking about a broad range of industries. Retail is certainly in that space; hospitality will be in that space. In the area of the city where my office is located, I have already seen a business shut down. The operator is saying, “I can’t open. There’s no point. I haven’t got the capital to do that.” His is a relatively new business. He is not in a position where he can reopen, because he does not have enough funds to be able to buy stock and re-employ people et cetera. The cessation of any assistance will certainly speed up that process and multiply that process across the board.

MS ORR: With respect to the announcement today of continued support, I heard you on ABC radio, but I did not get a chance to listen to the recording. Would you mind sharing with the committee some of your views on how, in that circumstance, the continuing support would be of assistance?

Mr Catt: The continuing support does two things. It gives people until 15 October, essentially, and, as Archie has signalled, it probably gives people some clarity around when support will end and what their thought processes need to be. Are they restarting the business? Are they ramping up the business? In some cases, unfortunately, are they closing the business down? The support is extended. It recognises that there are particular sectors where they will need to continue trading, as I said, with a model that is not necessarily profitable, so the support extends beyond the point where we reach the 80 per cent vaccination mark.

The other thing that the support announcements today really signal is how closely the 80 per cent double-dose vaccination rate, the national road map and the economic restart are linked, and certainly linked in the eyes of the commonwealth. I think it has made it really clear for the business sector and for government that that is the expectation. When we hit that 80 per cent vaccination rate, there is an expectation that trade should be resuming, economic activity should be resuming, and support can be withdrawn.

It certainly provides, for those operators who need ongoing support to continue trading, that ability perhaps to stay afloat for a little bit longer. It makes it very clear that we need to be mindful that the pathway does link to the 80 per cent vaccination rate and, from there on, businesses are expected to be able to operate profitably, which is what businesses do.

The worst fear of businesses has been that they will end up in a situation where support is withdrawn because we have reached that point on the national road map, and we have reached those vaccination rates, but they will be left in a position where they cannot actually operate a business viably and they are caught with no ongoing support and no viable business. That is the spot that no business wants to end up in.

MS CASTLEY: My question is about the businesses that have folded. Archie, you mentioned one. Do we have figures regarding how many have folded or are actually looking at it because they are just not viable?

Mr Tsirimokos: It is anecdotal, I think, at the moment. I do not think there are any facts and figures that we can point to. The very strong view that is coming across is that many businesses who did not have reserves, or sufficient reserves, to be able to get through this and have not been able to get sufficient support, whether that is government support, landlord support or whatever it might be, are looking at the next few weeks and saying, "If I'm going to be required to operate at 25 per cent of my capacity, I will be operating non-viably. I will be going further into the hole, and I won't be able to sustain that." We are talking about businesses that perhaps are waiting for the Christmas trade, for example, to survive. Can they hang around for that once-a-year hit to their revenue? They may not be able to, particularly if they are trading at a significantly reduced capacity.

MS ORR: I want to follow on from my last question to Mr Catt. You were talking about the certainty that has been provided with the announcements today, with the additional funding which takes us up to 15 October. Am I right in thinking that what you would be looking to government for next is to continue that conversation, particularly on an industry-specific level, to keep understanding what limitations there may be? Is it about bridging that gap between the health restrictions and the operating requirements so that the issues that Archie referred to, around operating viably and in a way that meets health requirements, can be worked through in much the same way as we saw last time?

Mr Catt: Yes. When we talk about business support, let me give the example of a business with a turnover of \$2 million a year. That business usually turns over \$40,000 a week. In the entire period from the commencement of lockdown, that business has received \$40,000 to cover the entire period of time. It is important to understand that, when we talk about support, businesses vary by their model. In some cases that is enough to meet the ongoing costs that you are incurring every week; in some cases it is not. We talk to business operators for whom it is clearly not enough to cover their costs. They are eating into savings. That leads them down the pathway that Archie talked about. When you are already into your savings, and you do not have an income coming in, the thought process has to turn to the future and whether you can keep trading.

To go back to your question, and away from the context, yes, we need to be heading into a conversation about this: while we are providing people with enough support to survive, how do we support them in getting their business operating at a level that makes it worthwhile to open the doors? It is about them being able to meet enough of those expenses to operate, with a combination of support and actual income, viably.

One of the things that we saw in 2020—and the impact that JobKeeper had has been noted—was that JobKeeper enabled people to do so, because the money was flowing to businesses' bottom lines. It was also flowing to employees. It also meant that businesses had resources so that they were able to provide goods and services, and use their staff to do so, because of the way that that wage subsidy worked.

As has been noted, the JobKeeper benefit is not available for businesses this time around. It has made a huge difference regarding that viability question, and whether it is worthwhile opening up the doors, running the power bill and running the water bill, and what that means for business. The best place we can be is to get businesses back to a place where they can operate profitably. The ongoing provision of support is only there for particular sectors that have no market, and they have no market as a result of the pandemic.

MS CLAY: Do you think that small businesses in particular need a bit of translation assistance or help in applying for grants? Could government have structured those grants in such a way that we could have processed them more quickly? For instance, should we have had boxes on there that were mandatory to complete before you could lodge the form? Were there any simple lessons like that regarding what assistance we could have provided to make sure that process ran a bit more smoothly?

Mr Catt: I am very happy to answer. The short answer is yes, there could have been more to do with helping businesses to apply. There could have been more to help government employees that were involved in the processing of those grants to understand the operating realities of a business as well. We know that the process was set up quickly. We know that a team was put together.

Some of the stories we hear from business, for example, reflect that they are dealing with someone processing their grant application that does not understand the nature of their business. They were getting requests for information that really did not make sense in the context of the way that they operated the business. For example, people were asked to provide a bank statement. The original reason to provide a bank statement was to enable the government to pay you. "This is the account that your money should go in; this is the link between your BSB number and your ABN number." The bank statement then became used as a piece of evidence to show that income was flowing to the business in a particular way. That led to questions being asked about the information on the bank statement which, if you run your business on an accrual basis, made no sense whatsoever.

Yes, we could have done more to make it easier for businesses to apply. A lot of the problems actually lay with the challenges of standing up that application process and standing up a team that did not necessarily always have the skills and the capacity to understand the businesses well enough to know about the kind of material that they were assessing, and what was actually needed.

MS CLAY: On the translation aspect of that, and businesses run by our CALD community, do you think there were particular problems there?

Mr Catt: They have not been specifically raised with us. I would imagine that the answer would be yes, because we know that there are businesses from across sectors, and all sorts of businesses, where that was a challenge. Providing the information that was sought was challenging for them. I would imagine that the answer is yes, but I do not have any specific information about how that might break down. I do not know whether that was captured during the grants process.

THE CHAIR: What are you hearing from your members, or other businesses, in relation to the challenges they are facing after not having received the grants? This morning, I understand that the Chief Minister confirmed that about 56 per cent had not received the payment, so that still leaves almost half. What are the challenges that are being faced by those businesses?

Mr Catt: The principal challenge—and Archie may wish to answer this regarding the businesses that he is talking to as well—goes to the ongoing financial pressure that that is placing on them. The short answer is that people are eating into their savings in many cases and, for many businesses, this is the second time around. They weathered the storm throughout 2020, and we got into a position in the first half of 2021 where people, particularly in the sectors that have been most impacted by this, were beginning to trade well and were enjoying good demand. We got to a position in May and June where accessing the staff to meet the demand was many businesses' greatest challenge, and that has essentially fallen off a cliff.

The people that we talk to are funding the business five weeks later, out of their own pockets. They are eating into their own personal assets in order to do so. That takes them into the thought process that Archie referred to, about whether this is sustainable in the longer term. “When I am putting my house, my family and my savings at risk, is that something I should be continuing to do, or do I need to look at another pathway?”

Mr Tsirimokos: Following on from Graham's comments, it feels like there is a disconnect to business in terms of the support that individuals who were stood down got. They got federal government support very quickly, and business was seen as some amorphous being which was not about people. We are really talking about people who, just like a wage and salary earner, have not received the money that they were relying on from that week of trade. Many people have received zero income through this period. Not only are they eating into their savings, but they are borrowing against their homes, they are using their credit cards and they are deferring other obligations in order to be able to put food on the table.

I do not think you can underestimate the impact of delayed payments. If it happened to a wage and salary earner, they would not be in a position to put food on the table. It is the same for many businesses that we are talking to. They are small, hand-to-mouth businesses in the sense of the amount of money that they are able to make. They are not making super profits. They have not got this big stash on the side that they can dip into. Anything that they did have is long gone, and now they are talking about

reaching into their mortgage and borrowing against that mortgage in order to keep going.

One thing that perhaps is a challenge in Canberra is the increasing price of properties. But in this respect it is probably helping those people because there is this false economy, if you like, where they are able to say, “I’ve got an extra \$100,000 in my mortgage that I can borrow.” But that is going to be eaten up as well. I suspect that in time that is going to play out even more significantly, with people not being able to meet their commitments with their bankers.

MS CASTLEY: Archie, was there much confusion for businesses between being able to go for the disaster payment and the small business grant? Have you heard many businesses talk about whether they should apply for everything? Do they worry because they will have to pay it back?

Mr Tsirimokos: Going back to Ms Clay’s question earlier, the communication around it was perhaps not as good as it could have been. I think there was a lot of confusion about that, and that certainly has not helped things. Often, I am talking to business owners, and if you see two at once, one is telling you one thing and one is telling you something else. There seems to have been some miscommunication or misunderstanding along the way, in relation to the way those ought to be treated.

MS ORR: Mr Catt was talking about the difference between JobKeeper and what we have now. It seems that JobKeeper perhaps would have been a better model, but we have what we have. What I have taken from this conversation—and it goes without saying—is that having an application process that is as fast as possible is certainly everyone’s preference. Is it a case now of finishing that and getting the money out to people, as well as starting to look to the next phase of what happens when we hit 15 October?

Mr Catt: Yes, the first statement is correct. We need to get the money out. The reason I hesitate is that there are people who applied for this grant on the very first day of its opening, on 26 August, who—although that may be a small number—have not been paid. They did not fail to provide evidence and they did not fail to provide paperwork; they just have not been paid yet.

Yes, getting the money to those who need it, and applied to those who need it, is absolutely critical. Beyond 15 October, the number of businesses that find themselves in the position where that financial support is all important, because they cannot open the doors and they cannot run a business, hopefully should be reducing. As I said, the challenge then is about being able to operate the business with some support, where that is required in particular sectors, so that you can balance out the loss and get the business up and operating again—while noting that it cannot be run profitably or viably without some support to supplement that.

For the initial weeks of this lockdown, businesses were not down 30 per cent or 40 per cent on their turnover; they were down 99 or 100 per cent on their turnover. That support was supplementing zero income. Hopefully, we are getting to a place where businesses are able to operate. Their turnover will be reduced, but some sort of government support will fill the gap and enable the business to run, provide goods and

services to the community and provide some input into the economy, which is the bigger picture here.

MS CASTLEY: My question is about the mental health toll that is occurring across businesses. What are you hearing about that? What do we know about government support and how that is affecting businesses, with regard to mental health?

Mr Tsirimokos: That is something that is close to my heart, in the sense that I am a board member of Lifeline. It is not just business, obviously, that is impacted by lockdown. Everybody in the community is affected, and everybody is affected in different ways. Business has the added burden of thinking about those things we have been talking about; that is, “I’ve got no income. What am I going to do? What does that mean for me? Am I going to be able to reopen? Am I going to have an income going forward?”

The one thing about all of this and the approach that has been taken which is perfectly understandable is that we have to lock down; we have to stop the spread of COVID. There is an easy measure by which we can measure our success or failure; that is, how many people are in hospital? How many people die?

What is the unknown here, and the big question for me, is: what is the mental health impact, short term and long term? What is the societal impact of kids not learning, parents not being able to support their kids properly and help them to learn, and kids losing out on that social interaction? That is aside from all of the economic considerations.

The reality is that the success of Lifeline is about being able to answer calls. Unfortunately, the number of calls has spiked. That would give you a good impression of what is happening across the community. I am not saying it is just business, but business has the additional impact of thinking: “I just don’t know if I will have enough money on the table. Will I go bankrupt at the end of this or will my company go under?” That is an added worry. People will have to adjust their lifestyles and their spending habits. In fact, they might have to adjust their entire lives around what happens at the end of it for them.

THE CHAIR: Is there anything that either of you would like to add that might not have been covered that is really important for the committee to hear?

Mr Tsirimokos: Thank you for the initiative. Thank you for the opportunity to speak with you all today. Hopefully, we have given you a little bit of an idea of the considerations that affect business. The thing that I want to reiterate more than anything is that business is not a thing; it is people, and people are affected. People are impacted. It is people that are hurting, and people that are suffering. We need to be mindful of the fact that those people that we are talking about are 62 per cent of our employment rate. We cannot underestimate the importance of being able to continue to support business, if we can, and ensuring that we have a sustainable, viable business community at the end of all of this.

THE CHAIR: On behalf of the committee, thank you for giving evidence before us today. I think it is really important. The secretary will provide you with a copy of the

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proof transcript of today's hearing, when it is available, to check for accuracy. I do not think that anyone took any questions on notice, so you do not need to liaise on anything. Thank you very much for attending the first public hearing and giving us a lot of insight into how it is impacting Canberra businesses.

Short suspension

WATCHIRS, DR HELEN, ACT Human Rights Commissioner

GRIFFITHS-COOK, MS JODIE, Public Advocate and Children and Youth People Commissioner

TOOHEY, MS KAREN, Discrimination, Disability and Health and Community Services Commissioner

THE CHAIR: We now return to the first public hearing and we are going to be hearing from the representatives of the ACT Human Rights Commission. Welcome. Please be aware that today's proceedings are covered by parliamentary privilege which provides protection to witnesses but also, of course, obliges them to tell the truth. The provision of false and misleading evidence is a serious matter. And all participants today are reminded of this.

Would you please confirm that you have read and understood the pink privilege statement that the secretariat sent you?

Dr Watchirs: Yes.

Ms Toohey: Yes.

Ms Griffiths-Cook: Yes, confirmed.

THE CHAIR: Do you wish to make an opening statement?

Ms Toohey: No. We are happy to answer questions.

THE CHAIR: Thank you very much for the submission that you handed us. We really appreciate that.

MS ORR: Can I start with a broad question. How is the Human Rights Commission continuing to reach out typically to, I guess, the more vulnerable members of our community during the lockdown? What work have you been doing to maintain the human rights of the community?

Dr Watchirs: If I could start, all commissioners have been working in that regard. In relation to the human rights team, we have been putting up fact sheets about your rights and lockdown. Specifically there is one on public health and one on people who have been subjected to detention and what their rights are in detention. We have newsletters and our website is regularly updated with issues like when police stations were closed and were reopened last Friday.

I invite other commissioners to talk about their team specifically. The Victims of Crime Commissioner is not here but I can tell you that her team is fully active with a large number of clients. In the last lockdown there was an increase in family and domestic violence. So it would not be unexpected for that to occur with this pandemic as well.

THE CHAIR: Do the other commissioners have anything to add before we go to supplementary questions?

Ms Toohey: Yes. From a complaint-handling perspective, I think we flagged in the paper, the submission that we have made, that we have had an increase across the board in both inquiries and complaints. A large proportion of those are COVID related in some way. I am happy to go into that in some detail later.

We are certainly working through with some of the community groups and working across government trying to address some of those more systemic issues that are coming up but at the same time certainly working with vulnerable members of our community to resolve issues that are directly affecting them on the ground. We are trying to do that as quickly as we can and are prioritising those matters that are affecting people's ability to participate in public life on a day-to-day basis.

I think it is fair to say that there is certainly a lot of inbound work. We are doing outbound work, as Helen has mentioned, through the website, through providing information out through those community groups to make sure that people have an understanding of their rights but also have a good understanding of the options available to them in using us to try and facilitate resolution of those concerns.

I am happy to talk to that in more detail a bit later in the session.

Ms Griffiths-Cook: Certainly, as public advocate, we have continued to respond to matters that are brought to our attention. Many of those, as you might be aware, come to us through compliance documentations. We have been continuing our review of those documents and identifying matters that might require our intervention.

Obviously, in addition to that, matters are brought to us directly. We have probably seen more in the mental health space than we have seen in the other portfolios that we cover. But certainly there has been no slowing of matters brought to our attention in the Public Advocate space.

In a more direct way, as Children and Young People Commissioner, you would be aware that I have been pushing out directed communications targeting children and young people directly, trying to pick up on some of the messaging that has been put out by government, translating that into children and young people-speak and, I guess, trying to also respond to questions that children and young people are posing to us directly or ones that are being brought to our attention by other stakeholders as issues or concerns that children and young people have, as well as using those as, I guess, a source of intel to then respond to and address those questions, both through our online newsletter but also through some of the video communications that I have been pushing out as well.

MS ORR: When you say “mental health increase” can you quickly go into that for me? I did not quite understand what it looks like. Very broadly, what does that mean?

Ms Griffiths-Cook: Certainly. In the mental health space, we get quite a lot of compliance documents sent to us as part of the requirements of the Mental Health Act. Those come primarily in respect of children and young people or adults who are subject to some form of involuntary action under the Mental Health Act.

What we have seen over this past three months, I guess, in this current quarter or our new financial year, sorry, is: we have already had well over 500 persons brought to our attention through our mental health portfolio. Approximately 20 per cent of that number are actually new consumers, people who have not been brought to the attention of the Public Advocate in the time of the Public Advocate. We have been able to determine that both by using our existing database but also by way of reference to our previous database to identify that they are not consumers that have previously been known to us.

MRS JONES: You mentioned, Dr Watchirs, the home detention, which is a part of the health orders that we are living under now where people cannot leave home for a period of time. Just for information, because I have certainly been asked about this, if someone has been arbitrarily detained for additional time because of communication issues that the government is experiencing, what is the process for them if they wish to apply for compensation under section 18(7), which says that anyone who has been unlawfully arrested or detained has the right to compensation for that detention?

Dr Watchirs: There was actually an amendment last year to the Public Health Act so that people cannot claim compensation. That was an explicit COVID measure last year that is still enforced.

MRS JONES: It is not about loss of business and so on. That also applies to the detention orders for quarantine, does it?

Dr Watchirs: That is my understanding. I can come back to you on notice if you like on that issue.

MRS JONES: That would be great. I was on the scrutiny committee. I thought our briefing was that it was about loss of income and so on.

MS ORR: My understanding is the same as yours, Mrs Jones. So I would be quite keen to have some more info on that.

THE CHAIR: I just confirm that the commissioner has said that she will take that on notice. Thank you for that.

Dr Watchirs: At the outset, as you know, we wrote to ministers about COVID issues concerning vulnerable people and, as you know, we wrote to all parties calling for the re-establishment of this committee because we thought it was important to have democratic accountability and transparency of how the pandemic is being handled.

Just in relation to the Victims of Crime Commissioner, she has a cultural and linguistically diverse liaison officer as well as an Aboriginal and Torres Strait Islander liaison officer. They are working with those communities.

THE CHAIR: Commissioner, you mentioned in the submission how the commission's view is that there should be the right of review of certain decisions. How would that look in terms of how that should be implemented and established?

Dr Watchirs: That idea came from Victoria, where there is a detention review officer.

You would be aware that the public housing towers lockdown last year was criticised by the ombudsman, who did a review of whether there were public health orders implementation that breached human rights. The finding was that there was a breach. So there is now a review of detention decisions to check that they are not arbitrary. It is not simply being isolated at home in some cases. As you know, there is the new O'Connor facility.

Although it may have been a proportionate response for a person to be put in isolation or quarantine, when that is rolling for a significant amount of time there needs to be monitoring and safeguards to ensure that it continues to be proportionate and lawful. So a good way of having that safeguard is having a review of that decision. You could do that under public health legislation as one way of doing that.

Commissioner Toohey, did you have any further comment on that issue?

Ms Toohey: Just that we have certainly received complaints from some people who have been caught in that rolling quarantine scenario. We are seeking responses to those. I am conscious that I cannot talk about the content of open complaints in this sort of open forum.

The other area certainly that we have had questions about is people being able to seek some sort of independent review as in the exemption process, the decision-making. There are internal review processes. Certainly we have been working very closely with that team in particular on trying to address some of the concerns that have been brought to our attention.

But I think, particularly as some of these arrangements are going to be ongoing, there certainly is value in looking at what sort of independent review process would be available—be that the Victorian model or be that something slightly more comprehensive. I do think that is something that we need to consider seriously.

THE CHAIR: At the moment, for anyone who does have a concern, the only available step is that you can have a look at it internally. Is that right?

Ms Toohey: Certainly from our perspective, it depends on the nature of the matter. With respect to some of the public housing matters and social housing matters, they have come to us as an accommodation status complaint in some circumstances. We have also got some matters in the exemption space around carer and parental responsibility complaints. So there are ways to formulate it.

I am not saying that it is ideal that people end up bringing their matters to the commissioner as a discrimination claim. And certainly there is a small proportion of matters that we know are being dealt with very effectively by my colleagues in other directorates. But certainly the commission is one mechanism for people to seek a complaint process around that decision-making.

Dr Watchirs: The other avenue would be if a person brought an action in the Supreme Court of being unlawfully detained. That would be one option. But as you know, we have recommended that there be a complaint mechanism under the Human Rights Act. That would make that a lot more accessible to people.

MS CLAY: We have got a lot of commentary in the community about balancing the Human Rights Act and the Workplace Health and Safety Act when we are talking about making vaccinations required for certain types of employment. I note that that was in your submission. I just want to tease that out a little. I think the view that you have stated is that if that is going to happen at all it should probably happen in legislation or regulations. Can you just talk us through that a little and also talk us through how we should communicate this? I know a lot of individuals, businesses and community sector organisations are actually quite confused about what their obligations are at the moment.

Dr Watchirs: Sure. At the moment there has been a public health direction for aged care workers to be mandated to have vaccines. That was a National Cabinet decision and has been implemented by the states. Under current active consideration are healthcare workers. In our submission we said that although that has already happened in relation to aged care, if future employment groups were to be added we would want that to be done through primary legislation. Public health directions are not even delegated legislation. They are not legislative insurance. They are put on the legislation register as a matter of courtesy, which is great for transparent and democratic access of the public to see what is happening.

But for a limitation of human rights, under section 28 it needs to be reasonable, necessary and proportionate as well as lawful. In our view, section 120 of the Public Health Act is not sufficiently precise or clear or explicit to give that power to legislate whole groups of workers.

We have seen it in other states for police, corrections, disability workers, childcare—there will be a lot of demand for other workforces. In our view, it should be done by a primary legislation but with full scrutiny of the Legislative Assembly.

MS CLAY: I understand that and I honestly do not know if that is something that is likely to happen in the ACT. But if it did happen in primary legislation that would usually take two sittings. So we would probably be looking at nothing until 10 November. I had a quick look at the sitting dates. If that is going to be done or you would want that done by primary legislation, it would probably take a couple of months at any given point.

Dr Watchirs: That would be our recommendation. Even it was done by public health direction, as it has been done with aged care, you could pass legislation to authorise that at a later stage.

MRS JONES: On the mandating of vaccines, in that same vein as Ms Clay's question, part 3, section 10(2) of the Human Rights Act says that no-one may be subjected to medical treatment without his or her free consent. You and I probably both got a little bit of a shock when the federal government made that decision about aged care. It is sort of done now. It set a little bit of a precedent and there is a conversation.

While I do appreciate the government very much being clear that they are not in a desperate rush to make any mandates but are considering what process would need to be undertaken, what are your thoughts on mandating vaccines? What would need to

occur, in your view, to properly consider whether it is a balanced thing to take that right away from somebody?

Dr Watchirs: Certainly section 10 is engaged—because of the right to only have voluntary medical treatment, the right to work under the Human Rights Act is also engaged, and the right to equality—where you have got certain classes of people who are not able to be vaccinated because of medical conditions or disability; for young people under the age of 12 there is currently no vaccine; and there may be a conscientious objection on the ground of religion that a person would not want to undertake mandatory vaccination.

In our view there should be some way of exemption process that a person can apply for that and then to be able to show that to their employer so that they are not unable to work. Of course, you could reasonably accommodate people in the workplace and put them on duties where they do not come in contact with members of public. In services like aged care, that would be difficult because most jobs do that.

MRS JONES: Can I just ask then: we certainly have had exemptions based on health reasons, which makes sense given it is a health improvement measure and a health protection measure, but we have not seen exemptions for any of our health directions, to the best of my knowledge, based on faith and culture. Do you have any ideas about how that could be accommodated in the same way?

Dr Watchirs: It would simply be in the legislation. Commissioner Toohey, did you want to say anything specific about that—the discriminatory aspects?

Ms Toohey: Yes. I think we have obviously seen certainly a lot of discussion about that. There is some good information available from the Fair Work Commission in that space about the approach to mandatory vaccinations when employers could consider it. They have got a very tiered approach to it.

I think, as Dr Watchirs has mentioned, our view is that—and again it goes back to that notion of putting it into primary legislation so that the exceptions that we are suggesting should be provided for—there is appropriate scrutiny over those processes. At the moment, as we know, there are, as you have said, medical exemptions available. There is information about that on the website.

When I certainly have people coming to me with complaints about it, they have gone to their GP, their GP has said they should be exempt from a particular vaccine, they go to the health directorate and the health directorate says they do not meet the criteria. They are in this limbo land where they have been told to go to their GP to get advice, they have got that advice, and then it does not meet this very strict criteria. At the moment we are trying to negotiate a process: “Here is my medical, which is not one of these five criteria. How do I get someone to have a look at this? And then how does that translate from there to my e-health record to my vaccine status?”

Again I think there are a lot of complexities, as you know, that we are tripping over as these things emerge. I think that one of our concerns in these things—

MRS JONES: It is after the fact, almost.

Ms Toohey: Yes. Without that public input and without that scrutiny, people are going to fall between the cracks in this space.

Dr Watchirs: The other thing I just want to add is that we have the document, the commission's position on vaccination passports, where we recommend a structured approach to conscientious objection. People could fill in an information declination form. That was something we picked up that another jurisdiction had used.

MRS JONES: And that sort of explained why—is that correct?—somebody might not be able to take the vaccine?

Dr Watchirs: That would be for conscientious objection. I think for the medical or disability reason then you would probably want medical evidence for that exemption.

THE CHAIR: My substantive is related to what Ms Clay was talking about—the use of public health directions to mandate certain actions which the commission has said would be better in primary legislation. I know that you went to a few of the examples in your submission but I was hoping that you might be able to expand on that and just give us some of the directions that have been made that you believe should have been done by way of primary legislation.

Dr Watchirs: The main one is the aged care workers mandatory vaccination. The live issue at the moment is vaccination certificates. As I said, we have done that position paper. We welcome that the government is not mandating the use of passports or certificates, like in other jurisdictions, but we have called on the government to manage their use to regulate so that it is not done in arbitrary and unfair ways to discriminate against people in those categories: as we said, people with disability or medical conditions, people that cannot have vaccines, young people that do not have access, and conscientious objection on grounds such as religion.

In our view, if there was functionality to the Check In CBR App that enabled people to be checked using a government app, then in our view the government should regulate that. I know that that functionality is not there are the moment, but it could be since Services Australia seem to be working with other jurisdictions that are using our app—Queensland and Tasmania. And if that proactive step of using a government app occurred, then we think there is an obligation to regulate that it is not used in arbitrary ways.

MS CLAY: Just to clarify, I think you are saying that you are supportive of the fact that the ACT government does not want a vaccine passport but that in the absence of that there may still be a need for regulation because it may be used by other organisations in any case and you are not—

Dr Watchirs: By third-party private enterprise, yes.

MS CLAY: Yes. And you are not recommending that the Check In CBR App be modified to include vaccination status. But if that happens then it has to be regulated. But you do not think it should particularly happen? Is that it?

Dr Watchirs: Yes.

MS CLAY: I thought I got it, but I just wanted to make sure I was really clear.

THE CHAIR: Just in terms of some of the public health restrictions that have been made, your submission talks about your concerns about the lack of transparency of how decisions are made and the limited options for external scrutiny of their implementation. We already talked about obviously the preference being through primary legislation. But what are some other steps that the government needs to take to make sure that the decisions that are being made under public health directions are more transparent?

Dr Watchirs: We did write to the health minister about this specifically. You would be aware that the previous COVID select committee took our recommendation from last year about human rights compatibility assessments accompanying public health directions and the government accepted that in principle. But in this emergency situation, although we have been assured that human rights have been taken into account, we have had even FOI applications looking for what that evidence is.

Some of the modelling has been referred to but it is important to provide that human rights justification up front. And if it cannot be provided immediately then it should be done as soon as possible afterwards so that those limitations under section 28 are reasonable, necessary and proportionate so that we can examine what is underlying, so that we can check that there are not unintended consequences that were not thought of when it was made in that very short amount of time. The whole point of safeguards and oversight is to check that there are not unintended consequences, particularly on vulnerable populations.

MS CLAY: And looking at more than a compatibility statement? You want reasons?

Dr Watchirs: Yes, the assumptions and reasons underlying those public health directions and why they were made and why they would continue to be in force if there had been a change in circumstances.

THE CHAIR: Commissioner, one of the things that you obviously did on 15 September was to recommend the establishment of this committee as part of that process of more transparency as well. What is your view, in terms of this committee's role in that, on making sure that we bring more transparency to some of these decisions?

Dr Watchirs: Hearing from the community about the impact is very important, particularly on vulnerable communities. We get complaints and we get compliance documents to find out what is happening, and we have correspondence with ministers and meetings. But the impact is so widespread that it is unprecedented use of government power to lockdown a city for so many weeks. That is why we recommended a committee. It finished with the election but, with the second wave of the pandemic, it is very timely that this committee is here.

MS ORR: On the health directions, I know Ms Clay noted that it was not just a compatibility but you wanted the reasons. Dr Watchirs, I think you had said

previously that there was almost an appreciation that you could not necessarily do a human rights publication for every single direction because, I assume, of fast-moving times and so forth. Can you just run me through what you would see as a way through? We are moving in fast times. We want something more than just a compatibility statement. What is a practical way that—

Dr Watchirs: It would be a human rights impact assessment, not unlike in our submission where say that in the case of aged care workers it was a very high risk of transmission with the last epidemic. This time there are a lot higher vaccination rates; so we have not seen anything like last year. It was 75 per cent of deaths in Australia were people being in aged care. That vulnerability has decreased due to vaccinations but they have the highest vulnerability to death.

That is a reason to limit workers' rights, limit their ability to only have voluntary medical treatment, their privacy by providing what their vaccine status is to their employers. There are a whole lot of impacts of human rights that are engaged. We need to look at that individually under section 28—whether they are reasonably and necessarily proportionate in all those limits, and to consult with unions and workers themselves and residents of those facilities and families, of course, who are impacted about how that works in practice.

MRS JONES: We have been discussing the health directions here. One of the supplementary questions that I had was: are you in any way part of the creation of the health orders? I do not think, from where I sit, that you do get consulted in that process at all, but I just wanted to get it on the record.

Dr Watchirs: No.

MRS JONES: Do you know if human rights commissioners elsewhere are consulted or if there is even a very short response to things that are about to be announced or things that have just been announced?

Dr Watchirs: I think we probably have more access than human rights commissions in other jurisdictions. But in relation to public health directions, I should say, by the Chief Health Officer, no, we have not had direct consultation. But we have written to the minister, and the Health Services Commissioner is in regular contact with the Health Directorate. So there is ongoing liaison. Even on issues like mandatory testing and healthcare workers, we have had approaches, just not directly from the Chief Health Officer.

MRS JONES: I actually want to go to some verbal racist attacks that have been going on in the community. I am not saying it is massive and it is happening everywhere, by any means, but there have been some prominent discussions lately of a couple of cases. It seems to me that the lockdown has exacerbated this problem in a way that perhaps people are being put under greater stress and are being less open to appropriate politeness perhaps.

What is the mechanism, what is the simplest way for, for example, an English as a second language person to record what has occurred to them in a way that is either statistically recorded for our analysis as a jurisdiction or can have an actual

complaint-handling process started, especially for those who are not actually that able to write essays about their experience? Is there a verbal method? Are there translated methods? What is the simplest method?

Dr Watchirs: In relation to racial vilification, I will leave that to Karen Toohey.

Ms Toohey: Certainly there are a range of ways that people contact us. They do it through social media. They do it through the online web. We have a contact form on there. We have been running community language ads on community radio for the last three months in a range of languages, over a range of programs, to try and encourage people to report. And those are very much about: “You don’t need to make a formal complaint but it would be good for you to tell someone. You are open to tell us in a confidential and safe manner.”

Some of those turn into formal complaints. Some of those we deal with as informal inquiries. Some of those we give people the information that they want to go away and be able to deal with the episode themselves. Some of them, as you know, are very difficult to pursue because it is somebody on a street corner yelling something at somebody. So we continue to do social media and go out with deliverables around anti-racism.

We are certainly involved in working with the federal Human Rights Commission on the national anti-racism strategy, which is coming but probably not coming quickly enough for everybody’s goodwill. But there is certainly a range of vehicles that people can use. And we are certainly able to take verbal complaints, which is often the way that people make contact with us first.

MRS JONES: Commissioner Toohey, could I please ask if, on notice, you could provide the links and a copy of the ads, the words used in the ads for example, so that I can see the complete picture of how people can come to you? When they come and their complaint does not become a formal complaint, is their experience recorded in our statistical format for annual review and so on?

Ms Toohey: Yes. We have only for the last year had a facility on our website to enable people to report to us, which is very clearly messaged as: “This is not a complaint. Let us know what is happening to you in the community.” And it is not specific to race. It is a broad-based sort of data collection tool. But we have been promoting that, again through social media.

We have certainly done some ads about our general complaint-handling process in some of the media. I do not think we have recently done community language ads, which is why we went to radio. We were told that was probably the best way of getting to a more diverse audience. As I said, we have only been doing that for the last couple of months. I am just waiting on a report coming back on the data on that. I am certainly happy to pull something together and get that to you.

MRS JONES: Please, so that we can advise people very clearly and also analyse the effectiveness of that communication strategy. I had a meeting this week with 15 people from about seven different ethnic communities who had raised these concerns with me over the last year or so, in particular recently, and none of them

knew how to raise these issues. Some of them are long-term Canberrans; they are not all first-generation new arrivals either. I think it would be great to be able to do more.

Ms Toohey: Yes. Obviously we would also like to do more. There are constraints around that, as you would be aware. I think it is also recognising that we are one part of the answer. Obviously the federal Human Rights Commission also takes complaints around racial vilification and race discrimination under the commonwealth Racial Discrimination Act—

MRS JONES: And the police.

Ms Toohey: And the police. We work very closely with the police in terms of those referrals. We are certainly in the support link app so that police do refer those sorts of matters to us. As you know, sometimes people want to report it. They do not necessarily want to bring a formal complaint. They want to know that somebody is paying attention to the issue. Sometimes we will get a matter reported to us where we are not dealing with it as a complaint but we will make contact with the respondent to point out to them what the concerns are about their behaviour and how it fits within the law and give them some educative material.

I am certainly happy to pull something together outlining some of those responses.

MRS JONES: That would be really fantastic. And perhaps how you communicate with ACT Policing because it would be good for us to be able to follow up with the same people that you do, rather than just the general—

Ms Toohey: Yes, sure.

THE CHAIR: I am conscious of the time. Just before you go, is there anything that the committee has not covered that you believe that you want to add and is important for us, the committee, to know?

Dr Watchirs: Sure. We have written to the Attorney-General and the Minister for Corrections in relation to the AMC and a number of options to reduce the number of people going to AMC. But I think the most serious one that we would want to draw your attention to is the need for a protocol between police and Health for public health order breaches where a person is subject to quarantine or isolation and has left.

In our view, they should be returned to where they are supposed to stay, rather than taken to the watch-house and the AMC and, if there is a minor breach of bail condition, the police exercise discretion to warn or caution the person, because the whole point of the public health direction is to stop the transmission of COVID. By taking a person to the watch-house and the AMC, that exposes more people to the risk of transmission.

It is incredible that there have been eight people at the AMC who have had COVID. There are only currently five at the moment, three women and two men. The use of personal protection equipment by staff there, very professionally, has meant that there has been no leakage so far.

PROOF

But look across the border at New South Wales, at Parklea and Silverwater prisons. You have got overcrowding where people are sharing a cell and it is very difficult to contain COVID, particularly the Delta variant in those circumstances.

It is already a different kind of detention, where people are not having family visits. They are doing that virtually by Zoom. There was a limit, when COVID first happened, that people were not allowed to exercise. But that was relaxed very quickly so that people are still getting exercise. But there are other kinds of things too: to change the number of people in the AMC would be to have COVID as an exceptional circumstance in bail, to amend that to give it consistency and principles for court to apply that. Last year there was an amendment to the Corrections Management Act, but it still has not commenced, to release early people who are not violent so that there would not be an impact on victims and people with medical conditions or palliative care to release them early.

In our view, there could be other categories such as pregnant women—and I know a woman recently went into labour at the AMC—whether they could be released early rather than have the prison overcrowded, particularly with those recent incidents, where there has been building work to bring some of those facilities back online that are not yet finished.

MS ORR: From what you were saying about the home quarantining and not being arrested but rather returned to where you were, was I right in my understanding that you are seeing much more of a trend of that interstate and not necessarily here in the ACT, but it is just one to be alert to and keep up best practice?

Dr Watchirs: There have been a number of cases in the ACT but we are not aware of the circumstances of actual cases apart from what we have seen in the media.

THE CHAIR: On behalf of the committee, I thank you, commissioners, for appearing today. Your evidence will be very helpful to the committee in moving forward as well. I think there were two questions taken on notice, although the question taken on notice by Commissioner Toohey from Mrs Jones might have a few parts to it. The secretary will liaise with you about those questions on notice. The secretary will also provide a copy of the proof transcript of today's hearing when it is available so that you can check for accuracy. Again, on behalf of the committee, thank you for coming.

We will adjourn very briefly and then we will be back with the ACT Council of Social Service.

Short suspension.

CAMPBELL, DR EMMA, Chief Executive Officer, ACT Council of Social Service
WALLACE, MR CRAIG, Head of Policy, ACT Council of Social Service

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

Dr Campbell: I have.

Mr Wallace: I have read the statement and understand it.

THE CHAIR: Thank you very much. Do you wish to make an opening statement?

Dr Campbell: I will make a brief opening statement. I would like to begin by acknowledging the traditional custodians of the land and pay my respects to elders past, present and emerging. I thank the committee for the opportunity to appear. We think that this committee provides really important oversight and transparency with regard to the response to COVID-19.

While the lockdown is having a disproportionate impact on people who already face disadvantage, ACTCOSS supports the lockdown as an essential public health measure necessary to protect people subject to poor health outcomes in the event that they contract COVID-19. Generally speaking, ACTCOSS has made the observation that this year's lockdown has seen a more timely and appropriate set of responses from the ACT government.

There has been targeted financial support for parts of the community sector, emergency food relief responses were stood up quickly and efforts by the ACT government in particular to vaccinate vulnerable communities have been relatively effective, such as the access and sensory clinic and partnerships with the community sector to support public housing tenants and people experiencing homelessness. Good engagement, coordination and communication with the community sector has occurred—for example, weekly briefings for the disability sector from ministers and twice weekly meetings between CSD and Health with community sector representatives. Flexibility in contracts has also been welcomed.

ACTCOSS would like, however, to register its serious concerns about the response to the COVID-19 outbreak in Condamine Court, but notes that lessons were quickly learned in time for subsequent and similar outbreaks, including at Ainslie Village. However, COVID has increased the vulnerability of some Canberrans who were already lacking basic incomes, decent housing, quality of access to services and transport or who were otherwise at risk, such as AMC detainees.

ACTCOSS strongly condemns the removal of the COVID disaster payments by the federal government without increasing the totally inadequate unemployment payments and calls on the federal government to lift the base rates of JobSeeker and related income supports to at least \$67 a day when parliament returns. We will see in Canberra increasing numbers of people without work forced to live below the poverty

line on \$44 a day.

ACTCOSS also highlights the ongoing housing crisis in the ACT that has been exacerbated during COVID-19. Homelessness services have been overwhelmed with people looking for support. While vulnerable people may have been placed in temporary accommodation for the period of lockdown, there is little available permanent and appropriate housing in the ACT for individuals and families to be housed when they come out of this temporary fix. That is it for my opening statement. I am happy to take questions on these or any other matters.

THE CHAIR: Thank you for that. We will start the questions with Ms Clay.

MS CLAY: Thank you for your opening statement. We are also pretty furious about the commonwealth support ending. I will ask you the most useful question I can ask you on that. How would you suggest the ACT government can best direct our efforts to support vulnerable Canberrans, given that we know that is going to be removed? Who should be target, and how should we help them?

Dr Campbell: That is a very big question.

MS CLAY: It is.

Dr Campbell: It very much depends on the sector or the cohort that you are talking about. The first thing I would say is that ACTCOSS calls on the ACT government to ensure that the relaxation of the public health measures are gradual and carefully considered, because we know that many vulnerable people still remain unvaccinated and remain at high risk if they were to contract COVID-19.

I will return to my two major points. Whilst we continue to need to give funding to community sector organisations who are on the front line of the response—be it in the alcohol and drug sector, the homelessness sector or the food relief sector—ultimately, to build a resilient community and protect its most vulnerable in this situation, we need to address the fundamental issues that impact disadvantaged Canberrans, and that is poor income support and a lack of appropriate affordable housing.

Mr Wallace: In terms of levers that the ACT government has, the ACT government has enacted a moratorium on evictions for rental arrears. That came into effect in early September, but it was limited to tenants who had lost a period of work or income. We would note that there were people who were struggling to find work or income prior to the lockdown. One of the things that could be done right now would be to ensure that the rental assistance and protections went to that entire group of people.

We have also made some representations to the Attorney-General outlining the rent relief measures which are available in Victoria and suggesting that a rent relief scheme might be considered. In terms of those with deep poverty and disadvantage, that is also something that the ACT government might do.

THE CHAIR: ACTCOSS has previously raised concerns about funding for essential services not keeping up with the increasing costs and growing demand, even before the lockdown. Are there particular vulnerable groups in our community that you are

concerned about that are being disproportionately impacted by the pandemic in terms of the particular vulnerabilities that exist?

Dr Campbell: I think it is all of our vulnerable communities. We have had some additional funding for community services to enable them to respond immediately. In these crises we often see, and we saw it following the last lockdown, that needs come with a bit of a lag after the crisis. We know, for example, that our community legal services will see a significant increase in demand as the months go on. We know that our homelessness services and domestic violence services will continue to see increases as time goes on.

While we welcome the short-term support for funding—the short-term additional support for the drug and alcohol sector, for example—we really need significant and sustained investment in all of those services, not on an ad-hoc basis, so that we are ready to support when crises happen but also to support people at the tail end of some of these crises. We have seen that the additional money that was given to us during COVID has now become kind of our core funding. We are asking for it to continue, because the demand has caught up with that crisis level and we think it will continue further.

Mr Wallace: I think Dr Campbell put it well, as always. The only thing that I would add is that, in terms of population groups that are affected, you can draw a good correlation between the groups that have been affected by outbreaks in Canberra and those who are most stressed and fractured in terms of ongoing support. We have had an outbreak within detainees in the AMC, within public housing, within disability residential settings and within specialist education settings. In other jurisdictions, we have had outbreaks amongst Aboriginal and/or Torres Strait Islander communities.

These are the most at risk of social disconnection and needing social assistance and also the most at risk of really poor outcomes from COVID-19 itself and sometimes the least likely to get vaccination and other assistance to maintain their own health.

THE CHAIR: In relation to anything the ACT government can do in terms of assisting to make sure that those gaps can be breached, Dr Campbell, you talked about some of the funding. Unfortunately, even though it is meant to be a boost, if you like, during COVID times, it is actually just catching up to what is needed. What are you thinking needs to be done further?

Dr Campbell: We obviously welcome funding announcements, but those funding announcements often come after we have, over a long period of time, advocated for that money. For example, we have had a recent announcement around the increase in the level of indexation for our core funding for the coming year. Of course we welcome that, but that should be basics; that should not be an announcement. We should be getting a decent level of indexation so that we can cover Fair Work Commission ordained increases in salaries. This is the challenge that we face.

I think the other really important thing is for the ACT government—and we see this sometimes—to see the community sector as an equal partner in their efforts to achieve the outcomes that they have outlined in their parliamentary and governing agreement, their wellbeing indicators and their policy platforms. We are very much part of that. It

needs to be a partnership, as opposed to us continually asking for money and resources in order to keep afloat and meet the ever-increasing demand.

MS ORR: Dr Campbell, just picking up on what you were saying about working with the government, you mentioned that there had been discussions and weekly meetings with different groups. What conversations have you had with government to form a response so far and what would you like to see continue as we move forward? You have said that there is a long tail to the community recovery from the health impact.

Dr Campbell: The coordination and the communication between the ACT government and the community sector has been much better this time than it was last time. I think that is because we have learnt from last time. I think there were some good initiatives that were set up that we have been able to build on over time. Obviously, some directorates have been better than others because they are more attuned to working with the community sector.

We welcome the engagement from Corrections, for example, but there is always more work to be done between non-Health and non-CSD directorates, who may not traditionally be so outward-looking and engaged with external parties, to engage with us a little bit more. We want to achieve the same outcomes that they want and they can gain a lot more by communicating and working with us. I think it is really using the models that have been developed in CSD and Health to apply to some of the other directorates.

Mr Wallace: I think the overall communication with vulnerable communities this time round has been broader and more comprehensive, and more timely resources have been given to it. That is beneficial in terms of both quality information about outbreak circumstances and people getting information about supports. It is quite rare that I would give an okay to the NDIS, but some of the commonwealth communication has also picked up in the disability space as well.

MS ORR: Do you think that in large part, as Dr Campbell said, it is taking the learnings from last year and applying them this year?

Mr Wallace: Yes. I think it took some time to develop that rhythm of communication last year and to understand that nature abhors a vacuum. I would make the observation, for instance, that when we had the initial outbreak in the disability sector it was a couple of days before we got quality information about the extent of that outbreak and the number of services that were affected. It was not like everybody else stood still. That caused people to cancel services and to be quite concerned about their own safety. I am seeing indications that government is acknowledging where it needs to do better, when it needs to do better and learning as we go.

THE CHAIR: That has answered one of my supplementaries. Obviously, concerns were raised about communication with the disability sector when we first had that outbreak and whether or not that has improved. I understand that that is the case.

MS CLAY: We know there is going to be a long tail to this and we all know that that is coming. This is like my first question. To support the vulnerable people who are going to be suffering from this for a very long time, even once we are on top of

COVID, whenever that is, who should we be targeting and how should government do it in a way that we are not doing it right now? We understand that housing affordability and all of the problems that we have now will be exacerbated. Is there anything you can see here that we should know about?

Dr Campbell: One of the challenges for politicians is that there is not one big answer. One of the things I would suggest to the committee is to reach out to as many other peak bodies or specific organisations who can share with you very specific actions that they would like to see in their respective sectors. But if you are looking for two magic bullets, they are affordable housing and decent income.

I think the other opportunity is the commissioning and procurement reform that is taking place. If it is going to work as we hope it does there will be very thorough and thoughtful needs assessments that can identify the challenges that already exist but have also arisen because of COVID-19. If the government delivers commissioning reform in the way that we hope it will be delivered, and as it promised, it should guide spending decisions and investment decisions in the services that are required to meet the needs of the most vulnerable in the ACT.

I think that taking a strong interest in how that commissioning reform takes place and whether or not it is successful in directing more investment and support—where we identify either newly emerging needs or unmet needs—would be of great benefit to vulnerable people, as well as holding the government to account to make sure that they set themselves targets and that they meet those targets as a result of that commissioning process.

Mr Wallace: The long tail that I would also point to, in addition to the one around people on low incomes, is around people in closed spaces and what this looks like for them. For around 18 months now we have had detainees in the Alexander Maconochie Centre who have had limited opportunities to hug, touch and have meaningful human interaction with their relatives and friends and have also, during lockdown, had limited access to official visitors, legal visitors and other protections that provide them with some proximity to community. I would also make the observation that I am concerned about that in closed spaces where people with disabilities are together.

I suspect one of the things that we are going to see is that, as the rest of the community opens up, there are going to be sections of the community who prioritise their own health needs and their health response and effectively start shutting down further. There are going to be groups of people with disabilities that I am connected to who are going to be very cautious and are going to be locking down while the rest of the community opens up. I worry about what that means for what we know is a degraded culture in closed spaces in aged care, where we are having a royal commission, in the AMC, where those issues are already known, and in disability care. It is transparency, it is sunlight and it is having other people coming in that prevents abuse and neglect in those spaces. I am worried that COVID is going to make it worse and we are going to be un-pulling that ball of string as we come out of pandemic and lockdown.

MS CLAY: They are not just the mental health impacts of, I guess, self-imposed

lockdown—I do not want to call it that—but of people taking measures to isolate further once public health restrictions are lifted, but also an increase in abuse.

Mr Wallace: Yes. I would note that we should not assume that that group is irrational. People are making rational decisions to protect and prioritise their own health care and the health care of their loved ones. The task for us is to ensure that we are providing all of the mitigating supports that enable people to continue to be connected with community in different ways and experience scrutiny, especially the most vulnerable. There is no reason why we could not be prioritising official visitors, for instance, into closed spaces where we know the balance of risk between having somebody coming in and having that space totally closed down for years at a time is in favour of taking steps to prevent abuse—if that makes sense?

MS CLAY: It kind of does.

Dr Campbell: I think that is a really important point as we come out of lockdown—making sure that, when we make decisions around risk and the locking off of areas, it is generally in the interests of the vulnerable people rather than in the interests of the institution. I think that oversight will be really important.

THE CHAIR: Fairly early on, there was significant concern raised about the management of the outbreaks that happened at Condamine Court and Ainslie Village. Can you take us through the concerns that you had, which I know you raised publicly at the time, about what was happening there and what the lessons are from that experience?

Dr Campbell: Yes. I think this will also, in some way, answer Jo’s earlier question. I was less involved with the Ainslie Village response; I was more closely involved in the Condamine Court response. Early on, individuals in Condamine Court did not have access to very basic requirements, including food and hygiene items, and the capacity to communicate externally. I think there was a very poor understanding of the medical needs of many of the people in Condamine Court.

I think that the approach was very much a tick-box exercise, trying to deliver key items but without really thinking about each of those tenants as individuals—what do we need to give that individual to make that person as safe as possible and as comfortable as possible; how would we like to be treated if we were in lockdown?—and then remembering that those individuals would not have access to many of the facilities and food stores and communication devices that others would have. It was very much asking the individuals of Condamine Court to fit into the structures that we already had set up as opposed to what do we need to do to meet the needs of the people in Condamine Court.

Once that was brought to the attention, quite publicly, of the ACT government, there was a lot of work to try and change. I think that effort and those learnings were visible in the response to Ainslie Village. What was also visible was that government responses do not always have the flexibility that is required to meet the needs of highly vulnerable people. That is why it is so important to work with community organisations who have some of that flexibility and also know the individuals in those complexes very well.

I think that some existing challenges around maintenance and the relationship between ACT Housing and tenants were also evident in some of the poor outcomes that we saw at the beginning of the response. I need to emphasise that there have been good learnings from that and those learnings were put in place, I think, very quickly by the government, in partnership with the community sector, in the subsequent response to Ainslie Village and some other outbreaks.

THE CHAIR: Between Condamine Court going into quarantine and contact from government to the community sector for that assistance and partnership, how long did it take?

Dr Campbell: As I recall, there was contact relatively early on between the government and the community sector, but I think it took some time for the government to appreciate the expertise of the community sector to respond to some of the issues that they were raising, given the very complex situation and the risk-averse or risk-orientated approach that obviously health authorities would take. Again, it is that issue of balancing the risk of COVID with the other risks that present with people with disability, with mental health issues, with drug and alcohol issues and with highly complex needs and, indeed, making them comfortable and feeling respected. It is about treating people with dignity so that they are able to remain, in adherence with the public health requirements, in their accommodation.

For example, if you have more than one person staying in a public housing complex, you may be charged a higher rent, because it is the proportion of their income. One of the things they could have done was to let people know by saying, “We’re not going to penalise you if you have another person staying.” That is a really simple thing. You need to understand some of the issues and fears that are held amongst the tenants in the complex that you are working in.

THE CHAIR: In terms of the support that was needed for many of those vulnerable communities—you talked about mental health and people with disabilities—was that support provided in a timely way? What could have been improved to make sure that the people there were able to get the support that they needed?

Dr Campbell: I would recommend speaking to ATODA and CAHMA about this. My understanding is that certainly at the beginning the response was not timely, and this includes food. CSD did organise, for example, for food to be delivered by Woolworths, but at that time there were long delays. People had very basic food, but it might not have been appropriate to their needs. I also understand that appropriate supports for drug and alcohol issues were not provided for quite some time. It was actually left to community service organisations initially to respond to those needs.

There were perhaps some issues of expertise amongst the health workers that were there, maybe matching well with the COVID situation but not with the particular vulnerabilities of individuals in Condamine Court. As I have said, I think we still need to work on rebuilding some of that trust with the residents of Condamine Court, but the lessons were learnt very quickly for the response to Ainslie Village.

MS ORR: That goes to my supplementary. You have been using a lot of language along the lines of lessons were learnt from the initial response and they were applied.

Is it right, then, that a lot of the stuff that led to the initial concerns has actually been addressed and you would not expect to see it necessarily happen again, and we have already seen that is the case with Ainslie Village?

Dr Campbell: Yes. Already we are seeing with the new facility that is being set up in O'Connor that there has been really excellent coordination between the ACT government and the community sector. The community sector are really leading some of the support that has been put in place for that particular quarantine facility.

That said, I think we need to take time in a longer view to address some of the issues around maintenance at Condamine Court. I welcome the recent announcement of additional investment in maintenance, but should we have had to wait for this crisis to highlight some of those issues? How do we ensure that we respond to vulnerable people in all contexts with their dignity at front of mind and their individual needs, as opposed to making them fit into systems and processes that work well for some groups but might not work well for people who are vulnerable?

MS ORR: If I understand what you are saying, it is taking this really positive step that we have taken in the learnings we have had during COVID and applying it to our ongoing responses. Is that the message we should be getting?

THE CHAIR: In terms of the lessons that have been learnt, which is positive to see, and coming out in the way that you are seeing play out in the O'Connor establishment, what are some of the aspects that still, in your view, need to improve?

Dr Campbell: With regard to?

THE CHAIR: Government dealing with community organisations to ensure that vulnerable people get the support that they need in moving forward?

Mr Wallace: This probably does not answer your question precisely, but I would observe that what lockdown and COVID have done is to amplify gaps, miscommunication and the lack of amenity that was already there. Lockdown looks all right if you are in a house with good natural sunlight, a patio to go out on during the day, lots of room and neighbours that respect your noise boundaries—basically in a position of privilege.

Lockdown looks very different if you are in housing that is multi-unit, where you have an active unresolved dispute with a neighbour who lives on top of you, where you have black mould on the ceiling or cracks in the bathroom tiles, where you have problems with your heating and cooling internally and where the disability access for the house that you are in no longer suits your needs. Under those circumstances, lockdown quickly becomes intolerable. We have all learned to appreciate the 15-metre spaces in and around our homes a lot more. Those people do not have those spaces.

ACTCOSS for some time now has been noting a steady but increasing strain of concerns about issues like the basic maintenance of public housing. Paying attention to those issues outside of a pandemic means that people have got more resilience, resources and capital available to them in times of crisis, whether it be pandemic, bushfires of whatever comes next.

Dr Campbell: If we want a list of things that can help vulnerable people in COVID-19 or more generally, ACTCOSS's budget asks for investment in housing, in transport disadvantage, in our community services and in early intervention for families. That will go a long way to ensuring that we have a much more resilient community should we have something similar to this and also help us come out of this in the coming months.

THE CHAIR: That is very helpful. Thank you very much for that. Is there anything that the committee has not covered through questions that you think is important for us to know? Do you want to add anything?

Dr Campbell: I wanted to reiterate some of the comments that Dr Watchirs, the President of the ACT Human Rights Commission, made around the AMC and looking at ways that we can reduce the number of people going into the AMC. The other issue is about making sure that people who come out of the AMC have proper support to access their second dose of vaccine and the latest information; that they are given the telephone number of the vaccine hub to go and get vaccinated. I think there could be some work done there, as well as implementing early release and parole programs, but, more broadly, continuing the work that the ACT government has done to target vulnerable communities for vaccination. That will be very important in the coming months. We applaud the work that has been done so far, particularly with vulnerable communities, and hope that continues.

Mr Wallace: I would certainly echo and reiterate the vaccination piece for vulnerable people. While the ACT is pulling ahead of the national figures on vaccination of people with disability, including in supported accommodation—we are up to around 73 per cent—the reality is that we needed that, like the 1a and 1b pathways opened up, in February and March. We all know that there have been issues around the de-prioritisation of disability in favour of aged care, which are problematic. We really need to ensure that we are targeting vulnerable groups of people with good information and access.

The other group of Canberrans that worry me are Aboriginal and/or Torres Strait Islander people. We need a clearer picture of the vaccination rates for that group. According to the Department of Health updates, we have around 75 per cent with one dose and just over half receiving two doses. This is a national problem as well as an ACT problem. If we are moving into opening up across the community, we do not want the most vulnerable Canberrans with the highest level of comorbidities and social exposures and risks to be the ones who suffer in that process.

THE CHAIR: Thank you. On behalf of the committee, thank you for appearing before us today. Your evidence is going to be very helpful to the committee. The secretary will provide you with a copy of the proof transcript so that you can check that for accuracy. You did not take any questions on notice. We are really looking forward to being able to make some recommendations to the government. Thank you very much.

The committee adjourned at 3.33 pm.