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Exposure Draft:

**Public Advocate (Official Visitors)
Amendment Bill 2012**

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Consultation

The ACT Greens welcome your feedback on the Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012.

Responses would be appreciated by 24 February 2012, as well as an indication or whether or not you are willing for your response to be provided publicly.

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1. Summary of proposed changes

The key proposals of the Public Advocate (Official Visitors) Amendment Bill 2012 Exposure Draft are to:

- ensure the independence of Official Visitors by having them resourced and located within the Office of the Public Advocate, rather than the current scenario where Official Visitors are resourced by the Directorates they investigate;
- ensure all Official Visitors must address complaints in a manner that is considered to be best practice, by standardising for all Official Visitors the current requirements of the Official Visitor for Children and Young People as set out in the *Children and Young People Act 2008*;
- create two new categories of Official Visitors:
 - an Official Visitor for People with Disabilities, focusing on people who live or stay in group homes or respite accommodation, provided by government or non-government organisations; and
 - an Official Visitor for People experiencing Homelessness, focusing on people who stay in emergency accommodation;
- ensuring there is an Official Visitor for Children and Young People specifically for children and young people of Aboriginal and Torres Strait Islander descent;
- ensuring there is an Official Visitor for Corrections specifically for detainees of Aboriginal and Torres Strait Islander descent; and
- expanding the role of the Official Visitor for Mental Health by tasking them with the oversight of:
 - people who are experiencing a mental illness and are under a community care or restriction order, in addition to people receiving psychiatric treatment at an inpatient facility; and
 - facilities run by non-government organisations, including step-up step-down facilities or places of long term supported accommodation; and
- increasing the level of certification and safety of disability accommodation places, by requiring that the Community Services Directorate to maintain a register of approved disability accommodation places, and requiring that ACT Government funding not be used to pay for clients to stay at places that are not on the approved register.

2. Background

The traditional role of Official Visitors is to regularly inspect Government facilities in which vulnerable people are being cared for, or held, and ensure they are receiving fair treatment and quality care. Official Visitors can work informally with residents to help them resolve their complaints, or can advocate on behalf of people who do not have the capacity to advocate for themselves.

2.1 Existing Official Visitors in the ACT

ACT legislation currently provides Official Visitors for people who are: children or young people under care and protection orders, or detained through the juvenile justice system; experiencing a mental illness; or detained through the adult corrections system.

An Official Visitor for Children and Young People is provided for through sections 37 to 59 of the *Children and Young People Act 2008*. The Official Visitor is responsible for providing oversight for children and young people in the care and protection system housed at Marlow Cottage, or within the juvenile justice system and being detained at Bimberi Youth Justice Centre. The ACT Government currently has one person filling this role.

An Official Visitor for Mental Health is provided for through sections 121 to 122B of the *Mental Health (Treatment and Care) Act 1993*. This Official Visitor provides oversight for people who are being treated in: the Brian Hennessy Rehabilitation Centre; Ward 2N, the Older Persons Mental Health Inpatient Unit and Hyson Green at Calvary Public Hospital; and the Psychiatric Services Unit (PSU) at Canberra Hospital. There are currently 5 people serving as Official Visitors for Mental Health.

An Official Visitor for Corrections is provided for through sections 57 to 61 of the *Corrections Management Act 2007*. This Official Visitor provides oversight for detainees held at the Alexander Maconochie Centre, the Symonston Periodic Detention Centre, and places outside of correctional centres where detainees work or are engaged in activities. There is currently one person conducting this role for the general prison population, and another person who is dedicated to assisting detainees of Aboriginal and Torres Strait Islander descent.

All of the Official Visitors are selected by, and report to, their relevant Minister, and are resourced through their relevant Directorates being the Community Service Directorate, the Health Directorate and the Justice and Community Safety Directorate. Official Visitors report publicly once per year via an appendix in their relevant Directorate's Annual Reports.

2.2 Reviews, reports and recommendations

Over the past decade there have been many reports, reviews and recommendations addressing the need to move the Official Visitors out of the Directorates they investigate and into the Public Advocates Office, to ensure their independence from Government. There have also been discussions about creating new Official Visitors to oversee other vulnerable people, including people with disabilities being housed in group homes or respite centres, and people experiencing homelessness and are being housed in emergency accommodation.

2.2.1 Gallop report

The Gallop Report¹ of 2001 was a result of a Board of Inquiry into services for people with disabilities in residential care. The Board of Inquiry was instigated by the deaths of three people with disabilities in residential care settings.

In that report it was indicated that the ACT Government was (at the time of giving evidence) in the process of creating an Official Visitor for People with Disabilities. The Report states:

“...the Department’s legislative program presently including a “*community visitors*” proposal, to ensure better consultation with consumers and compliance with disability standards... this proposal is described as part of the Disability Service’s Improvement Scheme... Such a proposal has potential merit, but the oral evidence ... indicates that it is still in its very early stages of formation, and has not yet reached the stage of drafting instructions.”²

The Gallop Report recommended³ that the Health Complaints Commissioner oversee the proposed Community Visitor Scheme.

2.2.2 FEMAG Report

In the lead up to the ACT Government establishing a Human Rights Commission, the Government commissioned the Australian National University’s Foundation for Effective Markets and Governance to review the ACT’s Statutory Oversight Agencies and Community Advocacy bodies. This review was issued in October 2003 and is commonly called the FEMAG Report⁴.

¹ Gallop, J 2001, ‘Final Report from the Board of Inquiry into Disability Services’, ACT Community Services Directorate, viewed 12 December 2011, <http://www.dhcs.act.gov.au/_data/assets/pdf_file/0003/7644/Final_Report.pdf>.

² *Ibid.*, p. 98.

³ *Ibid.*, p. 45.

⁴ Foundation for Effective Markets and Governance 2003, ‘Report of the Review of Statutory Oversight Agencies and Community Advocacy’, ACT Community Services Directorate, viewed 12

In relation to Official Visitors and their independence from the Government, the FEMAG Report stated:

“It is ... of concern that the administration and funding for Official Visitors is provided by the agencies with responsibility for the facilities to be overseen. The Visitors feel very uncomfortable with this relationship.”⁵

and

“The respective Ministers should still appoint the Visitors. It is arguable that the Visitors would be appropriately affiliated with the Office of the Community Advocate (*now called Public Advocate*) as they play a kind of advocacy role.”

The FEMAG Report went on to recommend that:

“for administration purposes and to safeguard their independence, Official Visitors be located within an Office of Community Visitors (*Public Advocate*) located with the other independent oversight bodies.”⁶

With regards to the specific roles and titles of Official Visitors, the FEMAG report recommended⁷ that:

- the title of ‘Official Visitor’ be changed to ‘Community Visitor’;
- an Official Visitor for People with Disabilities be established;
- the scope of the Official Visitor for Children and Young People be expanded to include any shelters where young people are located for protection;
- the scope of the Official Visitors for Mental Health be expanded to include persons subject to community care orders;
- amendments to the Health Records legislation be considered, in order to enable the Official Visitor for Mental Health to have access to all patient records, subject to the patient’s consent, in order that they may carry out their verification duties; and
- similar powers available to the Official Visitors for Mental Health (s122A *Mental Health Act 1994*) be granted to the Official Visitor for Children and Young People in the *Children and Young People Act 1999*.

December 2011, <http://www.dhcs.act.gov.au/_data/assets/pdf_file/0007/7675/Final_Report_3-10-0311.pdf>.

⁵ *Ibid.*, p. 54.

⁶ *Ibid*

⁷ *Ibid*, p. 53 & 54.

2.2.3 The Right System for Rights Protection

In response to the FEMAG Report, the ACT Government released ‘*The right system for rights protection: An ACT Government Position Paper on the System of Statutory Oversight in the ACT*’ in August 2004⁸. The paper listed the ACT Government’s response to each of the recommendations laid out in the FEMAG report.

In that report, the ACT Government states with regards to Official Visitors:

“The Official Visitors for mental health, child protection and youth justice will relocate to the office of the ACT Public Advocate. The similarity of functions and availability of collegiate support provide advantages to locating within the office of the ACT Public Advocate. Official Visitors for child protection and youth justice and the OCA support this change.

The need for accessible complaints mechanisms is acknowledged and supported and the Government therefore supports widening the scope of Official Visitors’ functions in relation to mental health. It will also proceed with the introduction of Official Visitors for disability, the details of which will be determined in consultation with the Disability Advisory Council, and assess the feasibility and appropriateness of establishing an Official Visitor for people who are homeless within supported accommodation services.

Official Visitors will be given additional powers, including the right to require the provision of information by those running a visited facility. The role of the Mental Health Official Visitors will be expanded to include persons subject to community care orders.

The role and functions of the child protection and youth justice Official Visitors may be impacted by the establishment of the Commissioner for Children and Young People, depending on its roles and functions.

An extension of the role of the Official Visitors will require amendments to the *Children and Young People Act 1999* and the *Mental Health (Treatment and Care) Act 1994*. The *Children and Young People Act 1999* is currently under review and the impact of extending Official Visitors’ roles will be considered as part of the review.”⁹

⁸ ACT Government 2004, ‘The right system for rights protection: An ACT Government Position Paper on the System of Statutory Oversight in the ACT’, ACT Community Services Directorate, viewed 12 December 2011,
<http://www.dhcs.act.gov.au/data/assets/pdf_file/0004/7267/RSRP_contents7.pdf>.

⁹ *Ibid.*, p. 27.

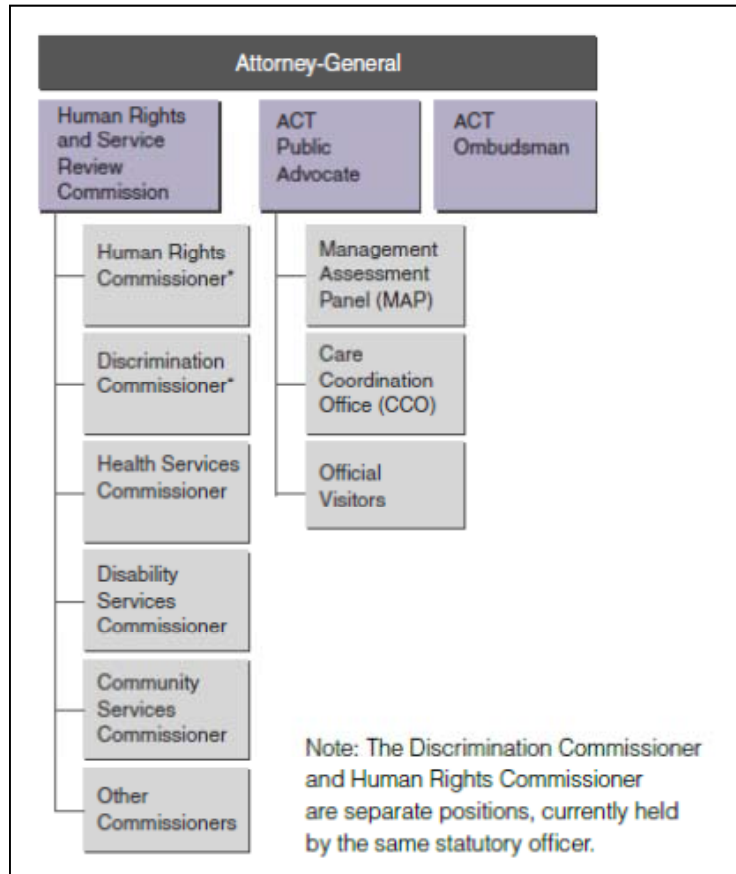


Figure 1: The proposed statutory oversight model proposed by the ACT government in the 'Right system for rights protection' paper.¹⁰

The ACT Government implemented a range of commitments through the 'Right system for rights protection' paper, most specifically through the creation of the Human Rights Commission, and changing the name of the Community Advocate to the Public Advocate. This was achieved through the Human Rights Commission Bill 2005. The Government also renewed the *Children and Young People Act* in 2008, improving legislative requirements of the Official Visitor for Children and Young People.

The Government is, however, yet to implement the commitments made to move Official Visitors to the Office of the Public Advocate, create an Official Visitor for People with Disabilities or People experiencing Homelessness, or expand the role of the Official Visitor for Mental Health.

¹⁰ *Ibid.*, p. 15.

2.2.4 Love has its limits

In December 2010 the ACT Legislative Assembly's Standing Committee on Health, Community and Social Services delivered the report '*Love Has Its Limits -Respite care services in the ACT*'.¹¹

The report found that there were a variety of Official Visitor schemes operating in Australia.

"Every state and territory has an official scheme, mandated in legislation, operating for people with mental illness and most appear to have something in place for children and young people and for people in prison. NSW, Victoria and Queensland also have programs for people with disabilities, with Queensland being the only jurisdiction that includes the aged care facilities."¹²

In that Report, the Committee recommended that the "ACT Government establish an Official Visitor Scheme for disability services located within the Office of the Public Advocate of the ACT."¹³

In the ACT Government's response¹⁴ to that Committee Report, the recommendation to establish an Official Visitor for People with Disabilities was only 'Noted', as compared to being accepted or agreed to in principle. The Government's response to the Committee inquiry implied that an Official Visitor for People with Disabilities may not be appropriate because:

"The Official Visitors Scheme in the ACT is appropriately targeted to institutions and treatment facilities where the majority of clients are receiving care under a legislative and/or administrative arrangement. The recommendation to establish an Official Visitors Scheme for disability services does not take into account that the majority of disability support services are provided to people in their own home or shared accommodation and are not subject to these arrangements."¹⁵

¹¹ Standing Committee on Health, Community and Social Services 2010, '*Love Has Its Limits - Respite care services in the ACT*', ACT Legislative Assembly, viewed 12 December 2011, <<http://www.parliament.act.gov.au/downloads/reports/7th%20HCCS%2004%20Respite%20care.pdf>>.

¹² *Ibid.*, p. 58.

¹³ *Ibid.*, p. 60.

¹⁴ Minister for Disability, Housing and Community Services 2011, 'ACT government response to the Standing Committee on Health, Community and Social Services. *Love Has Its Limits: Respite care services in the ACT*', ACT Legislative Assembly, viewed 12 December 2011, <<http://www.parliament.act.gov.au/downloads/reports/7th%20HCSS04%20Respite%20care.pdf>>.

¹⁵ *Ibid.*, 18.

The Government response went on to outline what other complaints processes and advocacy organisations are available to people with disabilities. It also stated it was:

“exploring a range of initiatives to assist people who have limited access to natural and formal advocacy to provide feedback on the quality of the services they receive and to raise their concerns within a safe environment. This will include working closer with the current advocacy agencies in the ACT.”¹⁶

2.2.5 Bimberi report

In July 2011, ‘*The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission*’ was issued publicly (also known as the Bimberi Report).¹⁷

In that report, the Human Rights Commission stated that:

“The role of the OV (*Official Visitor for Children and Young People*) is a difficult one to perform, particularly when only one person is appointed to the position. Structurally the OV should be placed in an agency which is independent from CSD (*Community Services Directorate*), and where they can receive professional support and administrative support.”¹⁸

As a result the Commission recommended that:

“The ACT Government fulfil the commitment made in 2004 following the review of the system of statutory oversight authorities, and place the Official Visitors for children and young people, mental health and corrections administratively with the Public Advocate.”¹⁹

The Government stated in its response to this recommendation that it ‘noted’ the recommendation, and that it would need to be considered by Government in a budget context.²⁰

The Bimberi Report also considered whether there should be an Official Visitor specifically provided for young people from Aboriginal and Torres Strait Islander backgrounds.

¹⁶ *Ibid.*, 19.

¹⁷ ACT Human Rights Commission 2011, ‘The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission’, viewed 12 December 2011, <<http://www.hrc.act.gov.au/res/Volume%20One%20Low%20Res.pdf>>

¹⁸ *Ibid.*, p. 370.

¹⁹ *Ibid.*

²⁰ Minister for Community Services 2011, ‘Government Response to The ACT Youth Justice System 2011: A Report to the ACT Legislative Assembly by the ACT Human Rights Commission’, ACT Community Services Directorate, viewed 12 December 2011, <http://www.dhcs.act.gov.au/data/assets/rtf/file/0004/249457/2011_ACT_Government_Response_to_the_HRC_Report.rtf>.

“In previous years there have been two people appointed to the position of OV. In light of the fact that a high proportion of young people in Bimberi are Aboriginal or Torres Strait Islander, the Commission recommends that the CYP Act (*Children and Young People Act*) be amended to require the Director-General to appoint at least two people to the position of OV, at least one of whom is Aboriginal or Torres Strait Islander.”²¹

The Government stated in its response to this recommendation that it ‘agreed-in-principle’ with the recommendation, and it would need to be considered by Government in a budget context.²²

2.3 Models used in other states

2.3.1 Victoria

In Victoria, the Office of the Public Advocate is responsible for ‘Community Visitors’ in the fields of mental health and disability²³. Community Visitors are volunteers who undertake the Official Visitors role, and there are approximately 500 in Victoria. They are appointed by the Victorian Governor in Council.

The Community Visitors oversee facilities where people with a mental illness or disability are cared for, and their roles are provided for in legislation through the *Mental Health Act 1986*, *Health Services Act 1988*, and *Disability Act 2006*.

Victoria does not have an Official Visitor for Children and Young People, but rather relies on the Child Safety Commissioner to monitor children and young people in care.

Victoria has an Official Visitor for Corrections created through the *Corrections Act 1986*, similar to the current ACT model.

2.3.2 New South Wales

The NSW Ombudsman’s Office coordinates the Community Visitor Scheme²⁴, which oversees government and non-government accommodation services for children, young people and people with a disability. The NSW Community Visitor also visits people living in licensed boarding houses.

²¹ ACT Human Rights Commission, *op. cit.*, p. 370.

²² Minister for Community Services, *op. cit.*, p. 116.

²³ More information about Victoria’s Community Visitors Scheme is available at <http://www.publicadvocate.vic.gov.au/services/107/>

²⁴ More information about the NSW Community Visitors Scheme is available at <http://www.ombo.nsw.gov.au/aboutus/coordnteeoffcommvstrprog.html>

Community Visitors are appointed by the Minister for Disability Services and the Minister for Community Services under the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

While the Ombudsman coordinates Community Visitors, the Community Visitors are considered to be independent from the Ombudsman and responsible directly to the Minister for Disability Services and the Minister for Community Services.

The *NSW Mental Health Act 2007* provides for Official Visitors for Mental Health²⁵. They are appointed by the NSW Minister for Health to visit people in mental health inpatient facilities and are available to assist consumers on community treatment orders.

NSW also has Official Visitors for Corrections appointed by the Minister responsible for Corrective Services NSW. It states on the Department's website²⁶ that Official Visitors are independent, however it is unclear if the Department directly resources the Official Visitors for Corrections. These Official Visitors report to the Minister bi-annually, and to the Commissioner for Corrections quarterly.

2.3.3 Queensland

The Office of the Public Advocate coordinates a Community Visitor Program to oversee people with a mental illness, disability, or dementia who are staying in a designated care facility²⁷. The Queensland *Guardianship and Administration Act 2000* sets out the role and powers of the Community Visitors. The Chief Executive under the Act appoints the Community Visitors.

The Office of the Commission for Children and Young People and Child Guardian also coordinates a Community Visitors scheme²⁸. This scheme seeks to assist children and young people who are in foster care, residential facilities, disability respite centres, authorised mental health facilities, youth detention centres, and youth shelters. Community Visitors are appointed by the Children and Young People Commissioner, and their role is provided for through the *Commission for Children and Young People and Child Guardian Act 2000*.

²⁵ More information on the NSW Official Visitors for Mental health is available at <http://www.ovmh.nsw.gov.au/>

²⁶ At <http://www.correctiveservices.nsw.gov.au/information/open-access-information/publication-guide/our-services>

²⁷ More information about the Queensland Community Visitors program for people with a mental illness or disabilities is available at <http://www.justice.qld.gov.au/justice-services/guardianship/community-visitor-program>

²⁸ More information about the Queensland Community Visitors Scheme for children and young people is available at <http://www.cycopg.qld.gov.au/support/community/index.html>

3. Key proposals

3.1 Independence of Official Visitors

The most important proposal contained within the Exposure Draft of the Public Advocate (Official Visitors) Amendment Bill 2012 is that all ACT Official Visitors are located in the Office of the Public Advocate. This is primarily facilitated by amendment 5, clause 13G of the Bill.

Currently Official Visitors for Children and Young People, Mental Health and Corrections are funded by the Directorate which they inspect and report on. If the Bill is passed, Official Visitors would be resourced by the Office of the Public Advocate, which in turn is funded by the Justice and Community Safety Directorate. This would add a layer of separation between Official Visitors and their relevant Directorates.

It is appropriate that the Official Visitors move to the Office of the Public Advocate rather than the Human Rights Commission or ACT Ombudsman because it is Official Visitors' responsibility to not only assist in the complaints process, but also to advocate on behalf of vulnerable people, similar to the advocacy role taken by the Public Advocate. The role of the Human Rights Commission and Ombudsman, in contrast, is to remain neutral, and to facilitate and rule on complaints.

If Official Visitors are co-located within the one office, they will be able to gain collegiate support and share knowledge about advocating for vulnerable people. The Public Advocate may also assist in ensuring the Official Visitors gain access to the necessary training they need to remain skilled and fulfil their responsibilities.

3.2 General responsibilities of Official Visitors

It is proposed that the general responsibilities of all Official Visitors, such as how they handle complaints and when they must report to Ministers, be set out in the *Public Advocate Act 2005*. This is facilitated by amendment 5, part 3A, clauses 13A to 13ZB of the Bill, and these clauses have most generally been taken from those which currently apply to the Official Visitor for Children and Young People.

The current requirements of the Official Visitor for Children and Young People are more recently established, comprehensive and explanatory than those which relate to all other current Official Visitors. Current provisions in the *Mental Health (Treatment and Care) Act 1993* which outline the responsibilities of the Official Visitor for Mental Health have not been updated for some time and though the

provisions for the Official Visitor for Corrections were written in 2007, they lack detail and cannot, for example, adequately deal with matters such as vexatious complaints.

While the *Public Advocate's Act 2005* will be amended to provide general requirements affecting all Official Visitors, more specific requirements regarding each Official Visitor, such as which places they must inspect and how often they must inspect them, will be outlined through the operational legislation affecting each Official Visitor, being the *Children and Young People Act 2008*, *Mental Health (Treatment and Care) Act 1993*, *Corrections Management Act 2007*, the *Disability Services Act 1991*, and *Housing Assistance Act 2007*.

3.3 New Official Visitors

The draft Public Advocate (Official Visitors) Amendment Bill 2012 proposes that two new Official Visitors be created, one for people with disabilities and one for people experiencing homelessness. It is intended that the provisions cover disability and emergency accommodation provided by both government and non-government entities.

The Official Visitors for People with Disabilities is provided for through amendment 5, clause 13D(1)(c) and amendment 1.22, clause 8A of the Bill.

The Official Visitors for People experiencing Homelessness is provided for through amendment 5, clause 13D(1)(d) and amendment 1.31, clause 25V of the Bill.

While people with disabilities or people experiencing homelessness are not technically 'detained' in accommodation, it is arguable that they are vulnerable, dependant on people who provide the accommodation to them, and have a diminished opportunity to move to other accommodation if unsatisfied with their current accommodation. Such people would benefit from having access to an Official Visitor who could assist in facilitating their complaints, and advocate on their behalf when they are unable to do so for themselves.

It is also relevant that people with disabilities and their parents are an ageing population and in the near future, a number of people with significant disabilities will not have their parents to advocate on their behalf. While siblings or the Public Advocate would or could take guardianship of people with significant disabilities, it is important that these people have greater capacity to advocate for themselves, or have greater access to people who can advocate for them.

The draft Bill also proposes that there be legislative assurance that there is an Official Visitor for Children and Young People specifically for children and young people of Aboriginal and Torres Strait Islander descent, and an Official Visitor for Corrections specifically for people of Aboriginal and Torres Strait Islander descent.

These roles are facilitated by amendment 5, clause 13D(1)(a) and (b) of the Bill. The appointment of Aboriginal and Torres Strait Islander-specific Official Visitors for both youth and adult justice facilities, but this is at the discretion of the Government at the time. With concerns for the high rate of incarceration for Aboriginal and Torres Strait Islander people, the Bill proposes that the appointment of Aboriginal and Torres Strait Islander-specific Official Visitors be guaranteed through legislation.

3.4 People with a mental illness under community care or restriction orders

Following on from the FEMAG and 'The Right System for Rights Protection' reports, the Bill proposes that Official Visitors for Mental Health be able to provide oversight to people with a mental illness who are under community care or restriction orders. Such people do not have a choice as to whether or not they are under community care or restriction orders, and the services they must access. The manner in which the Bill proposes to achieve this oversight, is by allowing the Official Visitor for Mental Health to be able to visit places where people experiencing a mental illness must access the prescribed services.

The Bill also seeks to clarify via amendment 1.33, clause 121, 'note', that the Official Visitor for Mental Health is able to inspect government and non-government places of care.

3.5 Frequency of Visits

The minimum requirements for how often Official visitors must inspect facilities relevant to them varies between each Official Visitor, according to the number of facilities they are responsible for.

With regard to the Official Visitor for Children and Young People (see amendment 1.1, clause 40), the Bill proposes to maintain the frequency of visits currently required, these being:

- each detention place at least once each fortnight;
- a therapeutic protection place at least once each week, if an entitled person is confined at the therapeutic protection place; and
- a place of care at least once each month, if an entitled person is being cared for at the place of care.

The Bill proposes that an Official Visitor for Corrections visit a correctional facility at least once a week (see amendment 1.15, clause 58). The Bill does not propose how often an Official Visitor must visit a place outside of a correctional facility, where a detainee is required to work or participate in an activity, as there may be a wide

range in the number and type of facilities involved and it is best left to the discretion of the Official Visitor. It is the intention, however, that the Official Visitor for Corrections must visit such places based on a facility's assessed level of risk and priority.

A minimum frequency of visits has not been applied to the Official Visitor for People with Disabilities and the Official Visitor for People experiencing Homelessness, given the wide range and high number of facilities that could come under their responsibility. For example, there are at least 60 group homes for people with disabilities provided by the ACT Government. There are also a large number of government and non-government operated respite services. Given these high numbers, it remains the intention that the Official Visitor for People with Disabilities and the Official Visitor for People experiencing Homelessness visit all facilities over a period of time, but the rate and which facilities are visited more often, should be the Official Visitors' discretion, based on a facility's assessed level of risk and priority.

The Official Visitor for Mental Health will be required to visit a public inpatient mental health facility at least once a month (see amendment 1.33, clause 122A of the Bill). Such facilities are envisaged to include: the Psychiatric Services Unit at The Canberra Hospital; Ward 2N at Calvary Hospital; Brian Hennessy Rehabilitation Centre; and the Crisis Support Unit at the Alexander Maconochie Centre. Other mental health facilities operated by both government and non-government entities would be visited on a schedule that is determined by the Official Visitor. These would include step-up step-down facilities and non-government operated long term accommodation, as well as places accessed by people under community care or restriction orders.

3.6 Legislative approval for disability accommodation places

The Bill proposes, via amendment 1.21 and 1.23, new clauses in the *Disabilities Services Act 1991* which would require the Community Services Directorate to maintain a register of disability accommodation (including long term accommodation and respite accommodation) that meet the necessary standards for safety and quality care. Standards would need to be developed by the Community Services directorate and would likely be similar to and expand upon those which currently are included in funding agreements to non-government entities.

Funds derived directly from the ACT Government, or indirectly from the Government via a community organisation, which are specifically for the purpose of paying for a person's accommodation, could only be used to purchase long term or respite accommodation from places which are on the register. If an accommodation place is not on the register, ACT Government funding could not be used to pay for a person to live or stay in that facility.

This proposal is in response to concerns raised by parents about the lack of assurance they have that the accommodation in which their children are placed, meets the necessary standards for safety and quality care.

The Bill proposes that the Community Services Directorate work with the disability sector to develop and implement the register and associated standards by 1 March 2014.