



ACT Inspector of Correctional Services



ACT HUMAN RIGHTS  
COMMISSION  
Australian Capital Territory



ACT Ombudsman

# **Relationship Protocol between agencies responsible for the oversight of the Alexander Maconochie Centre (AMC)**

OCTOBER 2019



## 1. Purpose

The purpose of this protocol is to outline how the following organisations ('the AMC oversight agencies'), which all have oversight responsibilities for the Alexander Maconochie Centre (AMC), alongside the Official Visitors (OVs) operating in the correctional services environment, work together to ensure effective oversight of the prison:

- the Office of the Inspector of Correctional Services (OICS)
- the ACT Human Rights Commission (HRC)
- the ACT Ombudsman

The protocol outlines:

- the role of the various AMC oversight agencies and the role of the OVs
- the legislation they operate under
- the principles underpinning the relationship between these agencies
- how the agencies and the OVs will engage and work together, and
- how information will be referred between individual agencies, as well as with the OVs.

## 2. Overview of the role of the parties to this protocol

At **Appendix 1** is a table which summarises the role of each of the AMC oversight agencies and the legislation they operate under in the context of the AMC.

At **Appendix 2** is a summary of the main areas within each agency which engage in AMC related activities. The areas responsible for managing this protocol and keeping it up to date are also specified here.

## 3. Principles underpinning the relationship

The AMC oversight agencies wish to foster a productive and mutually respectful relationship taking into account their respective roles and objectives. They recognise that an effective relationship is fundamental to achieving successful outcomes for each organisation, the AMC and the ACT community.

The agencies are committed to establishing and maintaining a relationship that is founded on the principles of:

- open and effective communication
- collaboration to meet respective outcomes
- respect and courtesy in dealings with each other.

We agree that our dealings will endeavour to be efficient, effective and timely in order to understand the issues, reach resolutions and/or achieve outcomes for our organisations and our stakeholders, including detainees, complainants and other external stakeholders. We also agree that any communication issues or concerns, are best resolved at the earliest opportunity.

Each agency is subject to its own privacy obligations under legislation and respective privacy policies, and these will be respected in any exchange of personal information.

## 4. Engagement between agencies

The AMC oversight agencies will meet every two months, at least one week prior to the quarterly AMC oversight agencies collaborative forum that is held together with ACT Corrective Services (ACTCS). This meeting will enable each agency to provide an update on AMC related matters, and agree to a list of current priority issues for discussion at the forum.

This list will be provided to ACTCS in advance of the forum by the OICS. OV's will also be invited to attend these meetings and encouraged to highlight any identified issues of concern that should be raised at the bi-monthly AMC oversight agencies collaborative forum.

Agencies are encouraged to use this meeting to share information and systemic concerns at a high level arising from individual complaints investigations that may be of relevance to the jurisdiction of one of the other oversight agencies. Equally, positive initiatives and developments could be raised, along with research evidence and findings of relevance to the AMC and the role and functions of oversight agencies.

At the end of each financial year, the AMC oversight agencies will also utilise these meetings to share the upcoming AMC priority activities for each agency for the upcoming financial year.

The agencies will seek to resolve any issues arising in business-as-usual activities by engaging in informal discussions including ad-hoc face-to-face meetings, email or telecommunication communications.

## 5. Information sharing between agencies

A summary of information sharing arrangements between the AMC oversight agencies is at **Appendix 3**.

Specific complaint referral arrangements between:

- the ACT Ombudsman and the HRC are also outlined at **Appendix 4**
- the ACT Ombudsman and OICS are outlined at **Appendix 5**
- the HRC and OICS are outlined at **Appendix 6**.

## 6. Review and amendment

The specific contact arrangements set out in the attachments may be varied by written agreement between the protocol owners without requiring the re-signing of this protocol. The protocol owners will review contact officers' details every six months to ensure that information remains current. They will also consult with the current OV's to ensure that their details remain up to date.

Where either party wishes to amend any aspect of the arrangements, that party shall notify the others in writing of the proposed changes. The protocol contact officers agree to negotiate in good faith as to whether the changes will be made, and if so, to what extent.

Revised protocols will apply from the date on which they are agreed, in writing, by the protocol owners as described in **Appendix 2**.

Signed: .....



Michael Manthorpe PSM, ACT Ombudsman

Date: 28/10/2019



Signed: .....

Mr Neill McAllister  
ACT Inspector of Correctional Services

Date: 2/12/2019

Signed: .....



Helen Watchirs, President and ACT Human Rights  
Commissioner

Date: 2/12/2019

Signed: .....



Karen Toohey  
ACT Discrimination, Health Services, and Disability &  
Community Services Commissioner

Date: 2/12/2019





## Appendix 1—Overview of AMC oversight bodies

	ACT Inspector of Correctional Services	ACT Ombudsman	ACT Human Rights Commission	ACT Official Visitors (OVs)
Summary of role	Provides independent oversight of correctional and youth justice facilities, focusing on continual improvement and prevention of ill-treatment. Does <b>not</b> handle individual complaints, but must review critical incidents at the AMC.	Investigates complaints from individuals who have been unable to resolve problems with ACT Government agencies, which includes ACT Corrective Services in its management of AMC. Also has a broader focus on seeking to improve public administration in the ACT by influencing systemic change, and an 'own motion' investigation power.	Handles individual complaints in relation to discrimination, services for people with a disability, health services, services for children and young people, and services for older persons. Conciliation approach can result in a wide range of remedies being available. Does <b>not</b> handle individual complaints regarding breaches of the Human Rights Act, but seeks to improve compliance and influence agencies regarding systemic issues.	Provides a monitoring and complaints system for AMC detainees (currently three OVs - two general and one Aboriginal and Torres Strait Islander OV).
Relevant legislation	<i>Inspector of Correctional Services Act 2017</i> (the Act)	<i>Ombudsman Act 1989</i> (the Ombudsman Act) <i>Corrections Management Act 2007</i>	<i>Human Rights Act 2004</i> <i>Human Rights Commission Act 2005</i> <i>Corrections Management Act 2007</i> <i>Health Records (Access and Privacy) Act 1997</i> <i>Discrimination Act 1991</i>	<i>Official Visitor Act 2012</i> <i>Corrections Management Act 2007</i>
Visits to AMC	As required, although commonly once every 7 to 10 days.	Monthly outreach, plus attendance at two monthly detainee delegate's meetings, and ad-hoc visits.	Frequency varies depending on what is required by the review or consideration being undertaken.	Up to weekly
Right to access information	Statutory authority under s 22 to access all information required	No blanket right to this information except in relation to a notified investigation under s 9 of the Ombudsman Act. In this circumstance, the Ombudsman has the power to obtain information (s11).	Broad power under s 73 of the Human Rights Commission Act to require a person to provide information/document or other thing where it is relevant to a consideration in relation to a complaint.	Able to access information on request under ss 15, 18 and 19 of the Official Visitor Act.
Restrictions on sharing information from detainees	See Appendix 3 on information sharing provisions			

	ACT Inspector of Correctional Services	ACT Ombudsman	ACT Human Rights Commission	ACT Official Visitors (OVs)
Reporting powers and obligations	Requirements to produce a report under s 27 of the Act. No legislative requirement to publish an annual report currently, however, included in 2018/19 Annual Report Directions and will publish a stand-alone annual report.	Sections 15(5) and 18 of the Act allow a report to be produced in relation to a complaint. Annual reports must be prepared.	In addition to annual reporting requirements, under Part of the Human Rights Commission Act, the President is responsible for: <ul style="list-style-type: none"> <li>reporting to the Minister and other appropriate entities about a Review arising from the complaints jurisdiction of the Commission (section 14(1)(d))</li> <li>reporting to the Minister and other relevant entities regarding a Report arising from a Minister's direction (section 17)</li> <li>a Commission-initiated report – where the Commission elects to undertake a consideration of a matter that could be the subject of a complaint, or any other matter relevant to the Commission's functions, such as section 41 of the Human Rights Act (section 84)</li> <li>an own-initiative report to the Minister about any matter of public importance related to the Commission, its functions or a matter that may be complained about (section 87) or</li> <li>providing a third party a Report that arises from a complaint consideration process, where such a Report is in the public interest, as well as other specific criteria. (section 83)</li> </ul>	Quarterly reports are provided
Powers to make recommendations	Has the ability to do so under s 27(2)(e).	Sections 15(4) and 18 of the Act allow recommendations to be made in the outcome of an investigation (including own motion investigations).	May make recommendations in reports produced in relation to individual complaints and Commission-Initiated Considerations.	Has the ability to make recommendations.



## Appendix 2—Protocol Owners and key contacts

### Protocol Owners

As there may be changes to protocol owners and team members during the lifetime of this arrangement, the AMC agencies will review this information on an annual basis and agree to update the document as required.

The relationship protocol owners are:

- ACT Ombudsman, Senior Assistant Ombudsman, Program Delivery Branch
- ACT HRC, Discrimination, Disability and Community Services, Health Services Commissioner
- OICS, Deputy Inspector of Correctional Services.

The relationship protocol contact officers are:

- ACT Ombudsman, Director, ACT Strategy and FOI
- ACT HRC, Executive Manager, HRC
- OICS, Deputy Inspector of Correctional Services.

Additional advice is provided below regarding the areas of the ACT Ombudsman and HRC offices that are likely to engage in relation to AMC oversight matters. A list of current official visitors is also provided.

### ACT Ombudsman

A structure chart for the ACT Ombudsman is available on the ACT Ombudsman website at: <http://www.ombudsman.act.gov.au/dev/about-us/who-we-are?a=105930>. The areas of the ACT Ombudsman's Office that are likely to engage on AMC related matters are summarised in the table below.

Area	Responsibilities
Program Delivery Branch  ACT Strategy and FOI	<ul style="list-style-type: none"> <li>• provide advice and support to teams dealing with AMC related matters</li> <li>• disseminate updates and general information to relevant teams</li> <li>• liaise with stakeholders to coordinate meetings, briefings and information requests</li> <li>• identify and respond to systemic issues, including; undertaking own motion investigations, preparing issues papers and discussion papers</li> <li>• monitor the implementation of Ombudsman recommendations</li> </ul>
Complaints Management and Education Branch	<ul style="list-style-type: none"> <li>• handle complaints by considering the most appropriate inquiry pathway in each case</li> <li>• inform ACTCS of the relevant legislative provision when seeking information</li> <li>• identify themselves and provide the Ombudsman's reference number on all enquiries</li> <li>• consider relevant protocols of external stakeholders (e.g. referrals to HRC)</li> <li>• provide relevant complainant details and background of matters</li> <li>• notify ACTCS when a complaint is closed</li> <li>• prepare and provide reports where relevant</li> </ul>
Assurance Branch (Commonwealth Ombudsman)	<ul style="list-style-type: none"> <li>• National Preventative Mechanism (NPM) Coordinator for Australia—network of oversight bodies across Federal, State and Territory jurisdictions which have been designated with the responsibility to conduct independent, regular and preventative visits to primary places of detention under the OPCAT.<sup>1</sup></li> </ul>

<sup>1</sup> United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment (OPCAT)



## ACT Human Rights Commission

Details of the Human Rights Commission's structure is available at <http://www.hrc.act.gov.au> including various protocols the Commission must prepare under its legislation, including an Operations Protocol.

Area	Responsibilities
Human Rights Commissioner	The role of the Human Rights Commissioner is to promote discussion and educate the community about human rights; to provide systemic oversight and advice to Government and others on compliance with human rights; to review the effect of Territory laws on human rights, including monitoring places of detention, and to seek leave to intervene in significant court and tribunal human rights cases.
Discrimination, Health, Disability and Community Services Commissioner	The role of the Discrimination, Health, Disability and Community Services Commissioner is to consider complaints about unlawful discrimination, sexual harassment and vilification under the <i>Discrimination Act 1991</i> ; as well as complaints about the provision of health services; services for people with a disability, services for children and young people and services for older people. The Commissioner also considers complaints about breaches of the <i>Health Records (Privacy and Access) Act 1977</i> , promote service improvements through own motion consideration of complaints and promote recognition and acceptance of the principle of equality of opportunity for all people.
Victims of Crime Commissioner	<p>The VOCC engages in systemic and individual advocacy for victims of crime. Section 11 of the Victims of Crime Act sets out the Commissioner's advocacy functions including:</p> <ul style="list-style-type: none"> <li>• advocating for the interests of victims of crime</li> <li>• advocating for the interests of affected people under the <i>Mental Health Act 2015</i></li> <li>• consulting on and promoting reforms to meet the needs or priorities of victims of crime</li> <li>• developing educational and other programs to promote awareness of the interests of victims of crime</li> <li>• ensuring victims receive information and assistance they need, and</li> <li>• advising the Minister on matters in relation to the interests of victims of crime.</li> </ul> <p>The Victims of Crime Commissioner is also responsible for trying to resolve concerns in relation to non-compliance with the Governing Principles for the Treatment of Victims of Crime.</p>
Public Advocate and Children and Young People Commissioner	<p>The PACYPC has legislative responsibility under the <i>Human Rights Commission Act 2005</i> for promoting, protecting, upholding and advocating for the rights and interests of people in the ACT who are experiencing vulnerability. This role extends to all persons whose situation or condition gives rise to a need for protection from abuse, exploitation or neglect, or a combination of those things, such as people involved with mental health services, disability services and children and young people with child youth protection services.</p> <p>Under s 27B of the <i>Human Rights Commission Act 2005</i>, the Public Advocate has a number of advocacy functions for people with a disability and children and young people. These include fostering the provision of services and facilities, supporting the establishment of organisations and the development of programs, to promote the protection of people with a disability from abuse and exploitation, to represent forensic patients before the ACAT or a court and dealing, on behalf of people with a disability, with entities providing services.</p>

### **Current Official Visitors**

The Official Visitor Scheme in the ACT is currently administered by the Public Trustee and Guardian.

Further information around the scheme, legislation and guidelines is available at:

<https://www.ptg.act.gov.au/visitor-scheme>

- Official Visitor – Shannon Pickles
- Official Visitor – Denise Brasser
- Aboriginal and/or Torres Strait Islander Official Visitor – TBA.



## Appendix 3—Information Sharing

The ACT Ombudsman, the HRC and the OICS recognise that they must all comply with relevant legislation and privacy laws in the ACT, when sharing information about AMC related matters. Nevertheless, AMC oversight agencies acknowledge that it is important for them to share information where appropriate to ensure:

- information of concern about AMC operations does not fall between the ‘cracks’ noting the different jurisdiction of each agency
- that, given limited resources, there is minimal duplication of effort on particular issues between the agencies
- a collaborative approach to oversight is taken.

The table below summarises specific legislative provisions which potentially provide for the sharing of information between oversight agencies or relate to the management of these relationships. Further detail regarding the specific complaint referral arrangements which take these provisions into account are included as follows between:

- the ACT Ombudsman and the ACT HRC are also outlined at **Appendix 4**.
- the ACT Ombudsman and OICS are outlined at **Appendix 5**
- the ACT HRC and OICS are outlined at **Appendix 6**

Legislation	Summary of provisions
<i>Inspector of Correctional Services Act 2017</i>	<ul style="list-style-type: none"> <li>• s 31—the Inspector must cooperate with the ACT Ombudsman, HRC and Official visitors to ensure functions are not delayed or their exercise unnecessarily duplicated</li> <li>• s 32—the Inspector can refer a matter to the ACT Ombudsman or HRC if he believes that the matter would be more appropriately dealt with by the investigative entity</li> <li>• s 33—if undertaking an own motion investigation that involves a detainee, correctional centre or service, the ACT Ombudsman and the HRC must consult with the inspector and ensure that their functions do not delay or unnecessarily duplicate the exercise of functions by the Inspector</li> <li>• s 34—the ACT Ombudsman or HRC may refer a matter to the Inspector if they believe the matter would be more appropriately dealt with by OICS</li> <li>• s 35—HRC and the ACT Ombudsman may share information with the OICS and vice versa where reasonably necessary to facilitate the above; an information sharing protocol may be entered into</li> <li>• s 37—it is an offence for OICS staff to use or divulge <i>protected information</i> (i.e. information about a person disclosed/obtained due to the exercise of a function under the Act), <b>unless</b> this is done under the Inspector of Correctional Services Act or another territory law, or in a court proceeding, or with the person’s consent.</li> </ul>
<i>Ombudsman Act 1989</i>	<ul style="list-style-type: none"> <li>• s 6A—the ACT Ombudsman may refer a complaint to a statutory officeholder, where it could be dealt with more conveniently, or effectively by the officeholder, and the officeholder consents to the referral</li> <li>• s 6B—the ACT Ombudsman must refer a complaint to the HRC if it would be more appropriate for the complaint to be investigated by the HRC; the ACT Ombudsman must provide the HRC with the relevant documents and information about the complaint</li> <li>• s 33—ACT Ombudsman staff have a duty to observe confidentiality and it is an offence to disclose information obtained under the Act, <b>unless</b> provided for under the Ombudsman Act, consent is provided by the principle information holder of the agency/responsible Minister or the person who provided the information, or in the context of an annual report where disclosure is considered appropriate by the Ombudsman</li> </ul>



	<ul style="list-style-type: none"> <li>• s 34—the Ombudsman can still make a public statement or disclose information where it is in the public interest to do so and it will not interfere with the carrying out of an investigation/report under the Act, but the Ombudsman must not: <ul style="list-style-type: none"> <li>○ set out opinions critical of an agency/person unless they have first been given the opportunity to comment</li> <li>○ disclose the name of a complainant/other identifying information unless it is fair and reasonable in all the circumstances to do so.</li> </ul> </li> </ul>
<i>Human Rights Commission Act 2005</i>	<ul style="list-style-type: none"> <li>• s 52A—the HRC may refer a matter to a statutory officeholder, where it could be dealt with more conveniently, or effectively by the officeholder, and the officeholder has been consulted</li> <li>• s 99—it is an offence for HRC staff to make a record or divulge <i>protected information</i> (i.e. information about a person disclosed/obtained due to the exercise of a function under the Act), <b>unless</b> this is done under the Act or another territory law, or with the person's consent.</li> </ul>

## Appendix 4—Complaints transfer procedures—ACT Ombudsman & Human Rights Commission

This appendix outlines how complaint matters will be referred between the ACT Ombudsman and the HRC.

**Note:** It is recognised that each agency may develop further, more detailed procedure documents for their staff to facilitate these transfer arrangements. Where this occurs, these will be shared with the other agency to ensure a consistency of approach.

### Part A—mandatory referral of health related complaints from ACT Ombudsman to the Human Rights Commission

Purpose	Ensure that health related complaints that are out of jurisdiction for the ACT Ombudsman are promptly transferred to the HRC
Legislative framework	s 6B of the <i>Ombudsman Act 1989</i>
Responsibilities	<p>ACT Ombudsman staff, with the appropriate delegation, are responsible for referring health related complaints to the HRC where they are satisfied that it would be more appropriate for the HRC to investigate the complaints.</p> <p><b>Note:</b> the ACT Ombudsman also has additional protocols in place for urgent AMC-related health complaints where, with the consent of the complainant, the Office will advise ACTCS of the complaint, on the same day that it is received, as well as making the referral.</p>
Service standards	Within 2 working days
Format	Email to <a href="mailto:HRCintake@act.gov.au">HRCintake@act.gov.au</a>
Parameters	<p>Complaints must be referred that relate to the provision of health services, or refusing to provide a health service, as defined by the <i>Human Rights Commission Act 2005</i>.</p> <p>AMC related examples of where a transfer may be appropriate include where:</p> <ul style="list-style-type: none"> <li>• an individual calls to complain that services received from Justice Health have had negative implications for her health.</li> <li>• a detainee calls and advises that he hasn't been able to see a doctor about an ongoing health issue or drug problem. No urgency is conveyed about the request.</li> <li>• a detainee calls and advises that since arriving at the AMC a month ago he still does not have access to his medication, despite repeated requests. He requires this medication to manage his PTSD, anxiety and depression.</li> <li>• a detainee complains that he has an infected arm and custodial officers have refused to let him see a doctor. He can no longer use his arm at all and thinks he needs an ambulance.</li> </ul>

## Part B—mandatory referral of non-health related complaints from ACT Ombudsman to the Human Rights Commission

Purpose	Ensure that non-health related complaints that are out of jurisdiction for the ACT Ombudsman but are able to be investigated by HRC, are promptly transferred to the HRC.
Legislative framework	s 6B of the <i>Ombudsman Act 1989</i> .
Responsibilities	ACT Ombudsman staff, with the appropriate delegation, are responsible for referring relevant complaints to the HRC where they are satisfied that it would be more appropriate for the HRC to investigate the complaint.
Service standards	Within 2 working days.
Format	Email to <a href="mailto:HRCIntake@act.gov.au">HRCIntake@act.gov.au</a>
Parameters	<p>Complaints must be referred to the HRC where they relate to the following matters that are out of jurisdiction for the ACT Ombudsman:</p> <ul style="list-style-type: none"> <li>• a service for children or young people (e.g. education, accommodation or rehabilitation services)</li> <li>• a service for older people (e.g. respite care, personal care or home maintenance services)</li> <li>• a service for people with disabilities (e.g. home help).</li> </ul> <p>In addition, complaints that raise a claim of direct or indirect discrimination should be referred to the HRC where a delegate is satisfied that that it would be more appropriate for the HRC to investigate the complaint.</p> <p>AMC related examples of complaints received where a referral may be appropriate include:</p> <ul style="list-style-type: none"> <li>• a detainee claims that he is being discriminated against as a member of the Aboriginal and Torres Strait Islander community and is not being given access to work programs within AMC</li> <li>• a detainee with a disability claims that he is not getting access to required disability support services within AMC.</li> </ul>

## Part C—referral of complaints from Human Rights Commission to the ACT Ombudsman

Purpose	<p>Ensure that complaints that are out of jurisdiction in terms of HRC complaint handling, but are able to be investigated by the ACT Ombudsman are promptly transferred to the ACT Ombudsman.</p> <p><b>Note:</b> AFP (including ACT Policing) related complaints referred will be considered under the Commonwealth Ombudsman jurisdiction.</p>
Legislative framework	s 52A of the <i>Human Rights Commission Act 2005</i>



Responsibilities	<p>HRC staff, with the appropriate delegation, are responsible for:</p> <ul style="list-style-type: none"> <li>consulting with the Ombudsman regarding possible referrals, and</li> <li>proceeding to refer relevant complaints to the Ombudsman where they are satisfied that it would be more appropriate for the Ombudsman to investigate the complaint.</li> </ul>
Service standards	Within 5 working days.
Format	Email to <a href="mailto:ombudsman@ombudsman.gov.au">ombudsman@ombudsman.gov.au</a> .
Parameters	<p>The ACT Ombudsman can investigate individual complaints about ACT agencies or authorities that do <b>not</b> relate to the following:</p> <ul style="list-style-type: none"> <li>a health service or a refusal to provide a health service</li> <li>a service for children or young people (e.g. education, accommodation or rehabilitation services)</li> <li>a service for older people (e.g. respite care, personal care or home maintenance services)</li> <li>a service for people with disabilities (e.g. home help)</li> <li>ACT public service employment matters.</li> </ul> <p>The Office has a particular focus on agency complaints handling and matters of public administration.</p> <p>As the Commonwealth Ombudsman, the Office can also investigate complaints about:</p> <ul style="list-style-type: none"> <li>ACT Policing</li> <li>a Commonwealth government agency</li> <li>a private CRICOS registered education provider</li> <li>a VET FEE-HELP or VET student loan approved provider</li> <li>a postal operator (e.g. Australia Post, StarTrack, Fed Ex Australia, Cheque-Mates, D and D Mailing Services)</li> <li>a health insurance agency.</li> </ul> <p>AMC related examples of complaints received where a referral may be appropriate include:</p> <ul style="list-style-type: none"> <li>a detainee complains that he has ended up in prison because of racial profiling and/or inappropriate conduct by ACT Policing.</li> </ul> <p><b>Note:</b> the Ombudsman generally does not progress complaints that have not been made directly to the agency of concern first, unless the client is particularly vulnerable. Matters of vulnerability should be discussed when consultation about the referral occurs, to ensure that the Ombudsman is best placed to progress the complaint.</p>



## Appendix 5—Referrals between ACT Ombudsman & the Inspector of Correctional Services including in the context of critical incidents at AMC

This appendix outlines how complaint matters will be referred between the ACT Ombudsman and the OICS.

**Note:** It is recognised that each agency may develop further, more detailed procedure documents for their staff to facilitate these transfer arrangements. Where this occurs, these will be shared with the other agency to ensure a consistency of approach.

### Part A—referral from OICS to the ACT Ombudsman

Purpose	As the Inspector of Correctional Services does not have an individual complaints handling function, they may choose to refer a matter to the ACT Ombudsman if they believe that the matter would be more appropriately dealt with by the investigative entity. This may include where a critical incident has occurred at the AMC and the Inspector believes it would be more appropriately investigated by the ACT Ombudsman.
Legislative framework	s 32 of the <i>Inspector of Correctional Services Act 2017</i>
Responsibilities	The Inspector may refer a matter where they choose to do so.
Service standards	N/A
Format	Email about critical incidents should be sent to <a href="mailto:michael.manthorpe@ombudsman.gov.au">michael.manthorpe@ombudsman.gov.au</a> by email, cc: to <a href="mailto:cathy.milfull@ombudsman.gov.au">cathy.milfull@ombudsman.gov.au</a> and <a href="mailto:ACTO.Ombo@ombudsman.gov.au">ACTO.Ombo@ombudsman.gov.au</a> .  Other complaint referrals should be sent to <a href="mailto:cathy.milfull@ombudsman.gov.au">cathy.milfull@ombudsman.gov.au</a> and cc: <a href="mailto:ACTO.Ombo@ombudsman.gov.au">ACTO.Ombo@ombudsman.gov.au</a> .
Parameters	<p>The ACT Ombudsman can investigate individual complaints about ACT Corrective Services that do <b>not</b> relate to the following:</p> <ul style="list-style-type: none"> <li>• a health service or a refusal to provide a health service</li> <li>• a service for children or young people (e.g. education, accommodation or rehabilitation services)</li> <li>• a service for older people (e.g. respite care, personal care or home maintenance services)</li> <li>• a service for people with disabilities (e.g. home help)</li> <li>• ACT public service employment matters.</li> </ul> <p>Examples of complaints received where a referral may be appropriate include:</p> <ul style="list-style-type: none"> <li>• a detainee complains that despite logging the issue many times, maintenance issues in his cell are still not fixed</li> <li>• a detainee complains that he has not been given access to information about the parole process or his own records</li> <li>• a detainee complains that no complaint processes are in place to allow him to raise his concerns about treatment in the AMC</li> <li>• it is identified that a critical incident was not reported to the Inspector as required.</li> </ul>

## Part B—referral of a complaint from ACT Ombudsman to the Inspector of Correctional Services

Purpose	<p>The ACT Ombudsman may wish to refer an individual complaint to the Office of the Inspector of Correctional Services (OICS) to inform the Inspector's oversight work.</p> <p><b>Note:</b> This would generally only be done where the complaint received indicates that a critical incident has occurred (see below).</p>
Legislative framework	s 6A of the <i>Ombudsman Act 1989</i> .
Responsibilities	ACT Ombudsman staff, with appropriate delegation, may refer a complaint to OICS.
Service standards	N/A
Format	Email to <a href="mailto:ics@act.gov.au">ics@act.gov.au</a>
Parameters	<p>Where the ACT Ombudsman receives a complaint which indicates that a <i>critical incident</i> has occurred at the AMC, this matter should be referred to OICS because:</p> <ul style="list-style-type: none"> <li>under s 18 of the <i>Inspector of Correctional Services Act 2017</i> (the ICS Act), OICS may review critical incidents that occur at the AMC on its own initiative</li> <li>there is an MOU in place between the AMC and OICS, requiring AMC to notify the Inspector of critical incidents within 4 hours of an incident occurring (<a href="https://www.ics.act.gov.au/_data/assets/pdf_file/0004/1327261/MOU-ACT-Inspector-of-Correctional-Services-and-ACTCS-Re-Critical-Incidents-no-Annexure.pdf">https://www.ics.act.gov.au/_data/assets/pdf_file/0004/1327261/MOU-ACT-Inspector-of-Correctional-Services-and-ACTCS-Re-Critical-Incidents-no-Annexure.pdf</a>)</li> <li>section 31(1) of the ICS Act require our offices to collaborate to ensure that we exercise our functions in a way that does not unnecessarily duplicate activities</li> </ul> <p>A critical incident is defined as an event that involved any of the following:</p> <ul style="list-style-type: none"> <li>the death of a person</li> <li>a person's life being endangered</li> <li>an escape from custody</li> <li>a person being taken hostage</li> <li>a riot that results in significant disruption to a centre or service</li> <li>a fire that results in significant property damage</li> <li>an assault or use of force that results in a person being admitted to a hospital</li> <li>any other incident identified as a critical incident by a relevant Minister or relevant director-general.</li> </ul>

## Part C—referral of other matters from ACT Ombudsman to the Inspector of Correctional Services

Purpose	The ACT Ombudsman may wish to refer a systemic matter to OICS to inform the Inspector's oversight work.
Legislative framework	s 34 of the <i>Inspector of Correctional Services Act 2017</i> (the ICS Act) s 34 of the <i>Ombudsman Act 1989</i> .
Responsibilities	ACT Ombudsman staff, with appropriate delegation, may disclose information to OICS where it is in OICS' interest to do so, or where it is considered otherwise in the public interest.
Service standards	N/A
Format	Email to <a href="mailto:Rebecca.minty@act.gov.au">Rebecca.minty@act.gov.au</a>
Parameters	<p>Matters can be referred to the OICS where they relate to the operation of the Alexander Maconochie Centre (AMC) or Bimberi (from November 2019). This would generally include higher level information about :</p> <ul style="list-style-type: none"> <li>• trends in complaints</li> <li>• systemic issues at the AMC that do not seem to be being addressed</li> <li>• issues raised with the ACT Ombudsman outside of the formal complaints process that we are not investigating.</li> </ul>



## Appendix 6—Referrals between the Human Rights Commission & the Inspector of Correctional Services

This appendix outlines how complaint matters will be referred between the HRC and the OICS.

**Note:** It is recognised that each agency may develop further, more detailed procedure documents for their staff to facilitate these transfer arrangements. Where this occurs, these will be shared with the other agency to ensure a consistency of approach.

### Part A—referral from the Inspector of Correctional Services to the Human Rights Commission

Purpose	As the Inspector of Correctional Services does not have an individual complaints handling function, they may choose to refer a matter to the HRC if they believe that the matter would be more appropriately dealt with by the investigative entity.
Legislative framework	s 32 of the <i>Inspector of Correctional Services Act 2017</i> .
Responsibilities	The inspector may refer a matter where they choose to do so.
Service standards	N/A
Format	Email to <a href="mailto:Karen.toohey@act.gov.au">Karen.toohey@act.gov.au</a>
Parameters	<p>The HRC can investigate complaints that relate to:</p> <ul style="list-style-type: none"> <li>• a service for children or young people (e.g. education, accommodation or rehabilitation services)</li> <li>• a service for older people (e.g. respite care, personal care or home maintenance services)</li> <li>• a service for people with disabilities (e.g. home help).</li> </ul> <p>In addition, complaints that raise a claim of direct or indirect discrimination can be considered by the HRC.</p> <p>Examples of complaints received where a referral may be appropriate include:</p> <ul style="list-style-type: none"> <li>• a detainee complains that he continues to be refused access to the methadone program</li> <li>• a detainee complains that she is being discriminated against as an Indigenous woman, and is being prevented from accessing programs in the prison</li> <li>• a detainee complains that he has been refused access to a doctor and his health condition continues to worsen.</li> </ul>



## Part B –referral from Human Rights Commission to the Inspector of Correctional Services

Purpose	The HRC may wish to refer a systemic matter or individual matter to OICS to inform the Inspector's oversight work.
Legislative framework	s 34 of the <i>Inspector of Correctional Services Act 2017</i> .
Responsibilities	HRC staff, with appropriate delegation, can refer a matter to OICS.
Service standards	N/A
Format	Email to <a href="mailto:Rebecca.minty@act.gov.au">Rebecca.minty@act.gov.au</a>
Parameters	<p>Matters can be referred to the OICS where they related to the operation of the Alexander Maconochie Centre (AMC) or Bimberi (from 8 December 2019).</p> <p>Examples of matters that could be referred include:</p> <ul style="list-style-type: none"><li>•</li><li>• a serious incident at the AMC or BYJC reported to the Commissioner as a complaint</li><li>• a serious incident resulting in hospitalisation of a detainee reported to the Commissioner.</li></ul>

