



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE

Public Hearing – Friday 16 February 2024

Responses to Questions Taken on Notice – NT Anti-Discrimination Commission

- 1. Does the Anti-Discrimination Commission currently examine all proposed legislation for inconsistencies with the *Anti-Discrimination Act* and, if not, how does the Anti-discrimination Commission prioritise which Acts they look and what they do not?**

The Anti-Discrimination Commission (ADC) does have the function to review all proposed legislation for inconsistencies with the *Anti-Discrimination Act*, but it has not been the practice of the Department of the Attorney-General and Justice (AGD) or other agencies to provide ADC with such an opportunity. This may be due to awareness of resourcing limitations at ADC to carry out the statutory function. However, during the review to modernise the *Anti-Discrimination Act*, AGD did offer ADC an opportunity to review different iterations of the Bill. The ADC considers such tasks as high priority to future-proof any risk of inconsistencies with the legislation. This is managed by prioritising the task with staff who have the requisite expertise in legal interpretation and legal analysis.

- 2. How many recommendations have been submitted to a Minister after reviewing an Act or regulation?**

The ADC has no historical data on this. The process of reviewing legislation at present is responding to questions by policy officers of the relevant department. The ADC regularly provides submissions in formal consultation processes, such as this inquiry, and provides advice and input to agencies during the Bill development stage. If ADC is conferred a strategic legislative scrutiny portfolio, an SOP (standard operating procedure) and relevant protocols will be developed as part of the legislative governance process for such reviews.

- 3. What consideration was given to using any existing established bodies in the Northern Territory to take on the advisory role rather than establishing a new one?**

The Commissioner is interested in setting-up a social-cultural governance structure based on a communities of practice (CoP) model that comprise of representatives from established bodies. It is the Commissioner's view that ADC provide the secretariat services to manage a CoP of First Nations representatives who will be instrumental in reviewing Bills for their impact on First Nations people. This will enable a place-based response by, for, and of, the First Nations peoples of the Territory. The CoP will be co-designed with a First Nations body e.g. APO NT. It is proposed that ADC will work as an intermediary between the Clerk's Office and Chief Parliamentary Counsel's Office together with the CoP in reviewing Bills in this context.

- 4. How does the Commission manage community fatigue when consulting with communities, does the Commission have a function where they head out to communities to consult on certain policies and legislation?**

The ADC currently conducts info-sessions, public education and community engagement with First Nations and community controlled organisations. The above proposed CoP model would provide the Commission insight to community fatigue for future consultation. The Commission

would be guided by the community controlled organisations and members in the CoPs to inform engagement and consultation.

- 5. Has the minister's office ever contacted the Anti-Discrimination Commission directly to ask or to say, 'We have this proposed legislation. We would like you to examine and provide feedback about this proposed legislation'? Or even a Bill that has been tabled in parliament?"**

The ADC has no historical data on this but during the last 5 months of Commissioner Yogaratnam's term, policy officers from the Department of Health have contacted the Commissioner in the capacity of Principal Community Visitor on the review of the *Mental Health and Related Services Act*. ADC have also received requests from various other government agencies to review governance documents and ensure it is consistent with the anti-discrimination legislation. Again, if the ADC is conferred a strategic legislative scrutiny portfolio, an SOP and relevant protocols will be developed as part of the legislative governance process for such reviews and the ADC would work with the Clerk's Office and Chief Parliamentary Counsel's Office to ensure that relevant bills are provided for scrutiny under the statutory function.