ACT HUMAN RIGHTS COMMISSION
Australian Capital Territory

Latimer House Review team
[redacted]

27 February 2026

Dear Latimer House Review team,

## Submission to the review team for the assessment of the Latimer House Principles

Thank you for inviting the ACT Human Rights Commission (**the Commission**) to make a submission to the assessment of the Latimer House principles on the three branches of government in the ACT.

As noted in the coversheet to this feedback, we consent to having our submission attributed and quoted in the report. We have, however, attached a separate schedule containing specific examples to provide concrete illustrations in support of our position. As these examples may touch on confidential government business, we do not consent to the schedule being made publicly available. Should the review team wish to seek advice from the ACT government on the matters raised in the schedule, please consult with the Commission first.

### I. INTRODUCTION

The Latimer House Principles,[1] which provide a framework for implementation of "the Commonwealth's fundamental values", emphasise the central importance of human rights as one of those values. The very first of the principles states:

> Each Commonwealth country's Parliaments, Executives and Judiciaries are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

We commend the Legislative Assembly for its ongoing commitment to the Latimer House Principles, including through this independent review process.

[1] Commonwealth (Latimer House) Principles on the Three Branches of Government, first published in November 2003, the edition reference in this submission was published in November 2023. It is noted the Latimer House Principles were first draft in 1988/1989.

This submission makes recommendations in respect of Principle (I) and Principle (IX) regarding the independence of the Human Rights Commission and the need to implement an ongoing permanent funding stream for human rights education.

## II. SUMMARY

The Commission's strong advocacy for human rights over the years is evidence of the fierce independence of the Commissioners who have over the years made up the Commission. We have taken, and will continue to take, strong stands where necessary to uphold human rights, even where that position is contrary to the position of the ACT government, might embarrass the government or supports a position that favours a litigant in proceedings against the government.

We have made, and will continue to make, recommendations both on a confidential basis and in public to advance the human rights of all Canberrans. Our advocacy to date has been effective and meaningful even though it doesn't always happen in the public eye.

We have welcomed, and will continue to welcome, confidential consultations and applaud the unique system developed in the ACT Government of seeking early input from the Commission on legislative policy proposals and drafting, including through the cabinet process. We commend the ACT Government for its ongoing engagement with the ACT Human Rights Commission and strongly support the continuation of this early and constructive engagement to assist with the development of human rights compatible legislation.[2]

This submission makes no suggestion that there has ever been any form of deliberate interference with the independence of the Commission insofar as it relates to our articulation of perspectives and positions about relevant matters, regardless of their alignment with those of the government. The Commission's strong advocacy over the years in support of the rights of Canberrans has clearly demonstrated this and we proudly carry out our functions with integrity.

This submission focuses, rather, on our increasing concern with the way the Commission is funded through a directorate and the impact this has on the Commission's functions. The increasing expectation that the Commission comply with what are ACT Government public service administrative and reporting requirements compromises the Commission's capacity to focus on its important task of advocating and promoting human rights in the territory.

The key focus of this submission is a revival of calls made over past decades - namely reconsideration of the place of the Commission within the broader structure of government. To better realise the Latimer House Principles, it is time for the ACT Human Rights Commission to become more administratively and financially independent. In this light, we request the Review consider recommendations to achieve this aim, including consideration of the resourcing required to ensure adequate support for both the functions accorded by law, and the corporate functions required to support administration of same.

[2] For an overview of the effectiveness of this function see Watchirs, H., Costello S., and Thilagaratnam R., "Human Rights Scrutiny under the Human Rights Act 2004 (ACT) in Debeljak J. and Grenfall L.(eds) *Law Making and Human Rights* (2020).

The second focus of this submission is on the importance of funded human rights education as articulated in the "Latimer House Guidelines"[3] and legislated as a mandate of the Commission.[4] As detailed below, although the provision and promotion of human rights education is a central statutory function of the Commission, we have never received funding for such a function. The lack of funding in relation to this key function affects both our independence (as articulated in the "Paris Principles", defined below) and also weakens the ACT Government's commitment to the Latimer House Principles. The Latimer House Principles recognise the role of human rights education in ensuring broad understanding of human rights across all parts of government and the broader community.

## III. ABOUT THE ACT HUMAN RIGHTS COMMISSION

1. The Commission is established by the *Human Rights Commission Act 2005* (**the HRC Act**). The current composition of the Commission includes:

   - The President and Human Rights Commissioner;
   - The Discrimination, Health Services, Disability and Community Services Commissioner & Information Privacy Commissioner;
   - The Public Advocate and Children and Young People Commissioner; and
   - The Victims of Crime Commissioner.

   (**the Commissioners**).

2. This is a submission of the President and Human Rights Commissioner and is submitted with the knowledge and support of other Commissioners.

3. The HRC Act states the Commission is constituted of eight members, being a president plus seven commissioners. In addition, the Commission houses additional commissioner positions as legislated for in other relevant acts, including the Information Privacy Commissioner.[5] In actuality, there are only four individual appointments who hold this multiplicity of positions.[6] For example, looking at the bullet list above, Dr Penelope Mathew is both the President of the Commission and the Human Rights Commissioner.

4. Commission members are appointed pursuant to section 18D of the HRC Act "by the Executive".[7] The appointment process is governed by the provisions under Part 19.3 of the *Legislation Act 2001* (**the Legislation Act**).

5. The main object of the HRC Act is to promote the human rights and welfare of people in the ACT.[8] The HRC Act states that this will be achieved through the establishment of the Commission and gives the Commission a long list of means for the Commission to achieve that

[3] Annex to the Latimer House Principles: "Parliamentary Supremacy and Judicial Independence, Latimer House Guidelines for the Commonwealth, 19 June 1998. See for example, Guideline I)(8) which states "Everyone, especially judges, Parliamentarians and lawyers, should have access to human rights education".
[4] See sections 6(2)(a), 18(1)(i), 27(2)(a) of the HRC Act.
[5] Part 5 of the *Information Privacy Act 2014* and .
[6] Section 12(3) of the HRC Act states "a person may hold 2 or more positions".
[7] Section 253 of the HRC Act states "A function given to the Executive under an Act may be exercised by any 2 Ministers acting in concert".
[8] Section 6(1) HRC Act

aim including, for example, through promotion of the provision of community education, information and advice in relation to human rights; identifying and examining issues that affect the human rights and welfare of vulnerable groups; making recommendations on legislation, policies, practices and services; promoting understanding and compliance with the *Human Rights Act 2004* (**the Human Rights Act**) and *Discrimination Act 1991* (**the Discrimination Act**); and many more.[9]

6. In addition, section 14 of the HRC Act separately sets out functions of the Commission and also cross references to functions given to the Commission by other territory laws. For the purpose of this submission, we focus on the functions conferred directly by the HRC Act, the Human Rights Act and the Discrimination Act. There are, however, many other pieces of legislation establishing independent functions for each of the Commissioners, all of which play some role in the promotion of human rights, including victims' rights, children's rights and disability rights.

## IV. STATUTORY INDEPENDENCE OF THE HUMAN RIGHTS COMMISSION

7. Section 16 of the HRC Act states:

> The commission is not subject to the direction of anyone else in relation to the exercise of a function under this Act or a related Act, subject to section 17. [10]

8. Section 18 of the HRC Act outlines various of the President's functions, including managing the administration of the Commission, financial management of the Commission's resources, ensuring the Commission's functions are exercised in an orderly and prompt way and reporting on behalf of the Commission.

9. The Commission is currently structured such that although each Commissioner is an independent statutory office-holder, the staff of the Commission are ACT public servants and the Commission receives its funding through the Justice and Community Safety Directorate (**JACS**).

10. Each of the Commissioners fall within the definition of "statutory office-holders" as defined by the Legislation Act. Each Commissioner is therefore also "an agency" under that definition and also a "public-sector member" for the purpose of section 150 of the *Public Sector Management Act 1994.* Staff of the Commission are also public sector members because section 150(iii) states that term includes if "a statutory office-holder enters into an arrangement with the head of service under a territory law for the uses of a public servant – the public servant".

## V. HISTORY OF CALLS FOR MORE ROBUST FINANCIAL AND ADMINISTRATIVE INDEPENDENCE

11. Repeated recommendations, including by independent reviews, submissions and inquiries over the years, have called for the Human Rights Commission to receive direct appropriation funding to avoid the inevitable conflict that arises from receiving its funding through an ACT

[9] See full list at section 6(2) of the HRC Act.
[10] Section 17 states that the Minister may direct the Commission to inquire into a report to the Minister in relation to a matter that can be complained about under the HRC Act.

government directorate. Without independent funding there is invariably imposition on the independent management of priorities.

12. This is exemplified by the current approach to budget bid prioritisation whereby the Commission not only has to prioritise its own budget bids, but the relative priority of the Commission's proposed bids is then weighed up against those bids being pursued by JACS, with the ultimate decision about the priority bids to be put forward to Treasury being decided by the directorate and not by the Commission. The Commission then has no role in advocating within the directorate or the budget process for the priority of bids.

13. One resulting example is that the corporate and governance team who sit under the president is funded at skeleton levels. The Commission has only one part time and unfunded media and communications officer (who also does the annual report) sitting within a small team tasked with the governance, operation and financial management of the commission. The small corporate and governance team increasingly spend their time fulfilling an increasing administrative load due to the Commission treated as a "business unit" of JACS.

14. One way of achieving independence is through establishment of the Commission or the Commissioners as officers of the assembly. There are, however, other structures and methods for achieving independence. All would involve stepping out from the immediate umbrella of a directorate so that the Commission and its Commissioners are no longer treated administratively (and inappropriately) as a "business unit" of a directorate rather than as independent statutory authorities.

15. There have been many previous submissions and recommendations that call for financial independence either specifically for the Commission or else for statutory authorities more generally in the ACT. The history confirms ongoing concern over many years about the Commission's administrative and financial ties to the Executive. This includes recommendations directly tied to the Latimer House Principles. One example is the independent "Hawke Review" in 2011, [11] which recommended statutory authorities such as the Commission remain as separate independent entities that should receive appropriate funding "in their own right" given that independent authorities such as the Commission form part of the foundation of the ACT's accountability framework.[12]

## VI. LATIMER HOUSE PRINCIPLES ON THE INDEPENDENCE OF HUMAN RIGHTS COMMISSIONS

16. Drafted in 1988, first agreed to by Commonwealth Heads of Government in 2003, and with a further action plan published in 2008/2009, the Latimer House Principles include as one of their key objectives "the promotion and protection of fundamental human rights." [13]

17. An extract of part of Principle IX of the Latimer Principles provides:

> The establishment of scrutiny bodies and mechanisms to oversee Government, enhances public confidence in the integrity and acceptability of government's activities. Independent

[11] Allan Hawke, *One ACT Government – One ACT Public Service, ACTPS Review Final Report: Review of ACT Public Sector Structures and Capacity*, February 2011.
[12] Ibid, pp 103, 148, 224 and 290.
[13] Ibid, Principle I.

bodies such as Public Accounts Committees, Ombudsmen, Human Rights Commissions, Auditors-General, Anti-corruption commissions, Information Commissioners and similar oversight institutions can play a key role in enhancing public awareness of good governance and rule of law issues.

18. The Commonwealth Parliamentary Association has published a "User Manual" which contains benchmark standards for democratic legislatures.[14] This includes "minimum" and "additional" benchmark standards. It is noteworthy that the following benchmarks are considered minimum standards:

    21.6 The Legislature shall establish an independent Human Rights Commission, or similar office, with the mandate to protect against human rights violations.

    21.7 The Legislature shall receive annual reports and scrutinise the activities of all independent constitutional bodies, such as Human Rights Commissions, anti-corruption bodies and Ombudsmen.

    21.8 The Legislature shall ensure that independent constitutional bodies receive adequate resources and that the work of such institutions is not subject to political pressure from the Executive.

19. In its Explanatory Notes, the User Manual explains:

    Independent bodies such as ombudsmen or human rights commissions (21.5-21.8) further the rule of law, but they need parliamentary support and supervision to function effectively and remain protected from Executive or partisan pressures.

20. Following the Explanatory Notes, the User Manual provides examples, including the following relevant to "Strengthen Oversight Functions":

    Independent Body Liaison: Creating a liaison office within the Parliament to coordinate with the Ombudsmen, Human Rights Commissions, and anti-corruption bodies, guaranteeing that resources and independence (21.7-21.8) are consistently maintained.

21. A genuine commitment to upholding and improving adherence to the Latimer House Principles must therefore take seriously measures to improve the financial and administrative independence of the Commission. Direct funding and arrangements that ensure administrative separation from the Executive is important to ensuring the independence necessary to carry out the legislated functions of the Commission. This will inevitably include changes to the way in which the Commission receives funding, and our place relative to ACT government directorates. It will also require consideration of the adequacy of funding in respect of both performing statutory functions, as well as the administrative and corporate support required to facilitate same.

[14] Commonwealth Parliamentary Association, *Updated Benchmarks for Democratic Legislatures: User Manual,* 2025 edition.

## VII. THE PARIS PRINCIPLES

22. The Latimer House Principles provide high level indicators regarding the importance of the independence of institutions such as human rights commissions along with guidance material as set out above. The Latimer House Principles do not, however, provide detailed practical guidance as to what such independence ought to look like for human rights commissions.

23. Given the Latimer House Principles centre respect for international human rights, it is appropriate when assessing the Latimer House Principles concerning the independence of the Commission to have regard to the expert guidance of the Global Alliance of National Human Rights Institutions (**GANHRI**), established to promote the Principles Relating to the Status of National Human Rights Institutions (**the Paris Principles**).[15]

24. The Paris Principles set out the minimum standards that National Human Rights Institutions (**NHRIs**) must meet in order "to be considered credible and to operate effectively". The Commission is one the nation's human rights commissions. If the Paris Principles are not adhered to, our ability to deliver on our functions is compromised. Given the ACT's leadership on human rights and our pioneering adoption of the Human Rights Act, it is important for the Commission to live up to these expected standards.

25. The importance of the Paris Principles was most recently recognised by the UN General Assembly in December 2025 in a resolution that, among other things, stressed:

> … the importance of the financial and administrative independence and stability of national human rights institutions …[16]

26. The Paris Principles themselves state:

> The national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subjected to financial control which might affects its independence.[17]

27. GANHRI provides accreditation for NHRIs by assessing compliance with the Paris Principles. For this purpose, GANHRI has developed guidance for such assessment which includes stipulating a range of minimum requirements to achieve accreditation. Examples include that human rights commissions have legislated mandates; that they are given specific functions including to monitor and report on respect for human rights by public authorities; that they are mandated to promote and protect human rights; and that there are clear and transparent merit-based appointment processes for senior leadership. The Commission meets all these

[15] Endorsed by the United Nations General Assembly, resolution 48/134, 1993.
[16] United National General Assembly, resolution 80/214, 18 December 2025 at [21].
[17] Section B.2 of the Paris Principles.

standards. Relevantly, GANHRI also provides the following guidance in the General Observations of the Sub-Committee on Accreditation:[18]

> To function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. It must also have the power to allocate funding according to its priorities. In particular, adequate funding should, to a reasonable degree, ensure the gradual and progressive realisation of the improvement of the NHRI's operations and fulfilment of its mandate.
>
> Provision of adequate funding by the State should, as a minimum, include the following: […]
>
> **e)** the allocation of a sufficient amount of resources for mandated activities. Where the NHRI has been designated with additional responsibilities by the State, additional financial resources should be provided to enable to assume the responsibilities of discharging these functions.
>
> […]
>
> Government funding should be allocated to a separate budget line item applicable only to the NHRI. Such funding should be regularly released and in a manner that does not impact adversely on its functions, day-to-day management and retention of staff.
>
> […]
>
> While an NHRI should have complete autonomy over the allocation of its budget, it is obliged to comply with the financial accountability requirements applicable to other independent agencies of the State.

28. The "justification" for the above guidance states:

> *Allocation for activities* – NHRIs should receive adequate public finding to perform their mandated activities. An insufficient budget can render an NHRI ineffective or limit it from reaching its full effectiveness. Where the NHRI has been designated with additional responsibilities by the State, such as the role of National Preventative or Monitoring Mechanism pursuant to an international human rights instrument, additional financial resources should be provided to enable to discharge these functions.[19]

29. On this point, it is important to be aware that the Commission has numerous functions which are either not funded or not adequately funded. This includes no funding for its mandate as one of three ACT bodies which form the ACT National Preventative Mechanism, and no funding for a human rights education function (discussed further below). There are many others, including a rapid expansion of the number of jurisdictions under which the Commission

[18] General Observations of the Sub-Committee on Accreditation as adopted by the GANHRI Bureau at meeting held in Geneva on 21 February 2018.
[19] Ibid, p. 28

accepts and conciliates complaints (such as human rights, privacy, occupancy and vulnerable persons complaints), without additional funding.

30. The justification also states:

> *Financial systems and accountability:* Financial systems should be such that the NHRI has complete financial autonomy as a guarantee of its overall freedom to determine its priorities and activities. National law should indicate from where the budget of the NHRI is allocated and should ensure an appropriate level of skilled staff. This should be a separate budget line over which the NHRI has absolute management and control. The NHRI has the obligation to ensure the coordinate, transparent and accountable management of its funding through regular public financial reporting and a regular annual independent audit.

31. The current financial structure for the funding of the Commission is such that we receive our funding through an allocation to JACS. Our budget is therefore allocated to us via a process managed by the Executive. This structure does not, in our view, comply with the GANHRI guidance for compliance with the Paris Principles.

32. To adhere to the Paris Principles is to adhere to the highest standard of independence for a human rights commission. Although we reiterate the strong independence of the Commissioners who make up the Commission and the lack of deliberate interference, we contend that the increasing administrative burden associated with having an organisational and financial structure inappropriately tied to the Executive compromises our functional independence.

## VIII. HUMAN RIGHTS EDUCATION

33. The main substance of this submission has focused on the Latimer House Principle regarding the need for an independent human rights commission. There is, however, one further aspect of the Latimer House Principles we draw the Review team's attention to, namely recognition for the importance of human rights education for "everyone" but especially for "parliamentarians".

34. The HRC Act tasks the Commission or the Commissioners with a wide range of education functions. A select few include:
    - to promote community education, information and advice in relation to human rights;[20]
    - to promote understanding and acceptance of, and compliance with the Discrimination Act and the Human Rights Act;[21]
    - to provide education about human rights and the Human Rights Act;[22]
    - to foster and promote community discussion and provide community education and information about the HRC Act, related Acts, the operation of the Commission and the procedures for making complaints[23]; and

[20] HRC Act, section 6(2)(a)
[21] HRC Act, section 6(2)(d)
[22] HRC Act, section 27(2)(a)
[23] Stipulated as a function in both sections 6(2)(m) and 18(1) of the HRC Act.

- to promote an awareness of rights and responsibilities of users and providers of services to which the HRC Act relates.[24]

35. Certain of the functions in the above list are specifically given to the president and human rights commissioner. However, the president and human rights commissioner has never been funded to provide an education function, nor a communications or media function. There is a team of less than three full time staff for the human rights commissioner to fulfill her mandate under the HRC Act, the Human Rights Act and under various other legislative instruments. This team carries out review, advice and policy functions in addition to intervening in Supreme Court cases that raise human rights. This same team also provides human rights education to corrections officers, youth justice workers and the community, including to the legal community. However, the ability to deliver on the legislative mandate is necessarily curtailed.

36. The Commission is strongly of the view that the lack of funding for human rights education within the Commission, or anywhere else in the ACT (including in schools), places a significant constraint on the otherwise laudable aim of the ACT to live up to the Latimer House Principles.

The Commissioners are available to meet directly with the review team to discuss this submission further. For questions on this submission or to arrange a follow up consultation, the contact in my office is Naomi Reiner Gould, who may be reached at [redacted]

Yours sincerely,



Dr Penelope Mathew
President and Human Rights Commissioner

[24] HRC Act, section 6(j).